GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

NATIONAL BOARD OF REVENUE

INCOME TAX MANUAL
PART- 1

THE INCOME TAX ORDINANCE, 1984
(XXXVI OF 1984)

[As amended up to July, 2014]

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Taxes Wing

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND JUSTICE
Dhaka, the 4th June, 1984

NOTIFICATION

No. 511-Pub.-The following Ordinance made by the President of the People's Republic of Bangladesh, on the 3rd June, 1984, is hereby published for general information :-

THE INCOME TAX ORDINANCE, 1984

Ordinance No. XXXVI of 1984

AN

ORDINANCE

to consolidate and amend the law relating to income tax

WHEREAS it is expedient to consolidate and amend the law relating to income tax;

Now, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in this behalf, the President is pleased to make and promulgate the following Ordinance :-

CHAPTER-I
PRELIMINARY

1. Short title and commencement. - (1) This Ordinance may be called the Income Tax Ordinance, 1984.

(2) It shall come into force on the first day of July, 1984.

2.Definitions.- In this Ordinance, unless there is anything repugnant in the subject or context, -

(1) "Agricultural income" means -

(a) Any income derived from any land in Bangladesh and used for agricultural purposes -

(i) by means of agriculture; or

(ii) by the performance of any process ordinarily employed by a cultivator to render marketable the produce of such land; or

(iii) by the sale of the produce of the land raised by the cultivator in respect of which no process, other than that to render the produce marketable, has been performed; or

(iv) by granting a right to any person to use the land for any period; or

(b) any income derived from any building which -

(i) is occupied by the cultivator of any such land as is referred to in sub-clause (a) in which any process is carried on to render marketable any such produce as aforesaid;

(ii) is on, or in the immediate vicinity of such land; and

(iii) is required by the cultivator as the dwelling house or store-house or other out-house by reason of his connection with such land;

(2) "amalgamation", in relation to companies, means the merger of one or more companies with another company, or the merger of two or more companies to form one company (the company or companies which so merged being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger as the amalgamated company) in such a manner that by virtue of , and for reasons attributable to the merger,-

(a) all the property of the amalgamating company or companies immediately before the merger, becomes the property of the amalgamated company;

(b) all the liabilities of the amalgamating company or companies immediately before the merger, become the liabilities of the amalgamated company; and

(c) the shareholders holding not less than nine-tenths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the merger by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company;

(3) "annual value" shall be deemed to be -
(a) in relation to any property let out, -

(i) the sum for which property might reasonably be expected to let from year to year [1][and any amount received by letting out furniture, fixture, fittings etc; or]

(ii) where the annual rent in respect thereof is in excess of the sum referred to in paragraph (i), the amount of the annual rent;

[2][(b)***]

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[1] *Ins. by F.A. 2009*
[2] *Omitted by F.A. 1993*

(4) "Appellate Joint Commissioner" means a person appointed to be an Appellate Joint Commissioner of Taxes under section 3 [1][and includes [2][an Appellate Additional Commissioner of Taxes] [3][and also a person appointed to hold current charge of an Appellate Joint Commissioner of Taxes];

(5) "Appellate Tribunal" means the Taxes Appellate Tribunal established under section 11;

[4][(5A) "Approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Board in accordance with the provisions of Part C of the First Schedule;]

(6) "Approved superannuation fund [5][or a pension fund]" means a superannuation fund [5][or a pension fund] which has been and continues to be approved by the Board in accordance with the provisions of Part A of the First Schedule;

(7) "Assessee", means a person by whom any tax or other sum of money is payable under this Ordinance, and includes -

(a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable, or of the amount of refund due to him or to such other person;

(b) every person who is required to file a return under section 75, section 89 or section 91;

(c) every person who desires to be assessed and submits his return of income under this Ordinance; and

(d) every person who is deemed to be an Assessee, or an Assessee in default, under any provision of this Ordinance;

(8) "assessment", with its grammatical variations and cognate expressions, includes re-assessment and additional or further assessment;

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[1] *Ins. by F.O. 1986*
[2] *Subs. for "a Senior Appellate Joint Commissioner of Taxes" by F.A. 1991*
[3] *Ins. by F.A. 1999*
[4] *Ins. by F.A. 1993*
[5] *Ins. by F.A. 1999*

(9) "assessment year" means the period of twelve months commencing on the first day of July every year; and includes any such period which is deemed, under the provisions of this Ordinance, to be assessment year in respect of any income for any period;

(10) "Assistant Commissioner of Taxes" means a person appointed to be an Assistant Commissioner of Taxes under section 3;

(11) "Bangladeshi company" means a company formed and registered under the Companies Act, 1913 (VII of 1913) [1][or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) and includes a body corporate] established or constituted by or under any law for the time being in force in Bangladesh having in either case its registered office in Bangladesh;

(12) "Banking company" has the same meaning as in [2][ব্যাংক কোম্পানী আইন, ১৯৯১ (১৯৯১ সনের ১৪ নং আইন)], and includes a body corporate established or constituted by or under any law for the time being in force which transacts the business of banking in Bangladesh;

(13) "Board" means the National Board of Revenue constituted under the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972);

(14) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(15) "capital asset" means property of any kind held by an Assessee, whether or not connected with his business or profession, but does not include-

(a) any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purposes of his business or profession; [3][and]

(b) personal effects, that is to say, movable property (including wearing apparel, jewellery, furniture, fixture, equipment and vehicles), which are held exclusively for personal use by, and are not used for purposes of the business or profession of the Assessee or any member of his family dependent on him; [4][***]

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[1] *Subs. for ", and includes a body corporate" by F.A. 1995*
[2] *Subs. for "the Banking Companies Ordinance, 1962 (LVII of 1962)" by F.A. 2000*
[3] *Ins. by F.A. 2014*
[4] *Omitted by F.A. 2014*

[1][(c)***]

(16) "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any object of general public utility;

(17) "chartered accountant" means a chartered accountant as defined in the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973);

(18) "child", in relation to any individual, includes a step-child and an adopted child of that individual;

[2][(19) "Commissioner" means a person appointed to be a Commissioner of Taxes or Commissioner (Large Tax Payer Unit) under section 3, or a person appointed to hold current charge of a Commissioner of Taxes or Commissioner (Large Tax Payer Unit)];

[3][(19A) "Commissioner (Appeals) means a person appointed to be a [4][Commissioner of Taxes (Appeals) under section 3 and includes a person appointed to hold current charge of a Commissioner of Taxes (Appeals)];]

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[1] *Subs. sub-clause (c) by F.A. 2011 and subsequently omitted by F.A 2014*
[2] *Subs. by F.A. 2003*
[3] *Ins. by F.A. 1990*
[4] *Subs. for "Commissioner of Taxes (Appeals) under section 3" by F.A. 1997*

[1][(19B)***]

(20) "Company" means a company as defined in [2][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন),] and includes-

(a) a body corporate established or constituted by or under any law for the time being in force;

(b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;

[3][(bb) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in [4][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);]

(bbb) any association or body incorporated by or under the laws of a country outside Bangladesh; and];

(c) any foreign association or body, [5][not incorporated by or under any law], which the Board may, by general or special order, declare to be a company for the purposes of this Ordinance;

(21) "co-operative society" means a co-operative society registered under [6][সমবায় সমিতি আইন, ২০০১ (২০০১ সনের ৪৭ নং আইন) (Co-operative Societies Act, 2001)(Act No. 47 of 2001)], or under any other law for the time being in force governing the registration of co-operative societies;

(22) "cost and management accountant" means a cost and management accountant as defined in the Cost and Management Accountants Ordinance, 1977 (LIII of 1977);

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[1] Ins. by F.A. 1999 and subsequently omitted by F.A. 2003
[2] Subs. for " the Companies Act. 1913 (VII of 1913)" by F.A. 1995
[3] Ins. sub-clause (bb) and (bbb) by F.A. 1991
[4] Subs. for "the Companies Act.1913(VII of 1913)" by F.A. 1995
[5] Subs. for the words "whether incorporated or not" by F.A. 1991
[6] Subs. by F.A. 2012

(23) "Deputy Commissioner of Taxes" means a person appointed to be a Deputy Commissioner of Taxes under section 3, [1][and includes a person appointed to be a Transfer Pricing Officer], an Assistant Commissioner of Taxes, an Extra Assistant Commissioner of Taxes and a Tax Recovery Officer;

(24) "director" and " manager" in relation to a company have the meanings assigned to them in [2][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)];

[3][(25) "Director-General of Inspection" means a person appointed to be a Director-General of Inspection (Taxes) under section 3, and except for the purpose of section 117, includes a person appointed for the purpose of this Ordinance to be an Additional Director-General of Inspection (Taxes), a Deputy Director-General of Inspection (Taxes), or an Assistant Director-General of Inspection (Taxes);]

[4][(25A). "Director General (Training)" means a person appointed to be Director General(Training);]

[5][(25AA) "Director General, Central Intelligence Cell" means a person appointed to be Director General, Central Intelligence Cell [6][or [7][any Director, Central Intelligence Cell or any Joint Director, Central Intelligence Cell or Deputy Director, Central Intelligence Cell or Assistant Director, Central Intelligence Cell] authorized by him];]

(26) "dividend" includes-

(a) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;

(b) any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;

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[1] *Subs. by F.A. 2012*
[2] *Subs. for "the Companies Act.1913(VII of 1913)" by F.A. 1995*
[3] *Subs. by F.A. 1991 and again subs. by F.A. 1993*
[4] *Ins. by F.A. 2003*
[5] *Ins. by F.A. 2004*
[6] *Ins. by F.A. 2007*
[7] *Subs. by F.A. 2012*

(c) any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;

(d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalized or not;

[1][(dd) any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);]

(e) any payment by a private company of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profit; but does not include-

(i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share including preference share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;

(ii) any advance or loan made to a shareholder in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as dividend within the meaning of sub-clause(e) to the extent to which it is so set off;

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[1] *Ins. by F.A. 2002*

[1][(iiia) any bonus share issued by a company;]

[2][(iv)***]

Explanation-The expression " accumulated profits",-

(a) wherever it occurs in this clause, includes any reserve made up wholly or partly of any allowance, deduction or exemption admissible under this Ordinance or under the Income tax Act, 1922(XI of 1922), but does not include capital gains arising before the first day of April, 1946, or after the thirty-first day of March, 1949, and before the eighth day of June, 1963.

(b) as used in sub-clauses (a), (b) and (d), includes all profits of the company up to the date of such distribution; and

(c) as used in sub - clause (c), includes all profits of the company up to the date of its liquidation;

(27) "employer" includes a former employer;

(28) "employee", in relation to a company, includes the managing director, or any other director or other person, who irrespective of his designation, performs, any duties or functions in connection with the management of the affairs of the company;

(29) "Extra Assistant Commissioner of Taxes" means a person appointed to be an Extra Assistant Commissioner of Taxes under section 3 [3][and includes a person appointed to hold current charge of an Extra Assistant Commissioner of Taxes];

[4][(30) "fair market value" means, in relation to capital asset-

(a) the price which such asset would ordinarily fetch on sale in the open market on the relevant day, and, where such price is not ascertainable, the price which the Deputy Commissioner of Taxes may, with the approval in writing of the Inspecting Joint Commissioner, determine;

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[1] *Ins. by F.A. 2002*
[2] *Omitted by F.A. 1999*
[3] *Ins. by F.A. 1999*
[4] *Subs. by F.A. 2000*

(b) the residual value received from the lessee in case of an asset leased by a financial institution having license from the Bangladesh Bank on termination of lease agreement on maturity or otherwise subject to the condition that such residual value plus amount realized during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution;]

(31) "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient, or consideration which would be income of the recipient classifiable under the head "Salaries";

[1][(31A) "financial institution" has the same meaning as assigned to it in আর্থিক প্রতিষ্ঠান আইন, ১৯৯৩ (১৯৯৩ সনের ২৭ নং আইন) (Financial Institution Act, 1993) (Act No. 27 of 1993)]

(32) "firm" has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932);

(33) "foreign company" means a company which is not a Bangladeshi company;

(34) "income" includes-

(a) any income, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance under any head specified in section 20;

(b) any loss of such income, profits or gains;

(c) the profits and gains of any business of insurance carried on by a mutual insurance association computed in accordance with paragraph 8 of the Fourth Schedule;

(d) any sum deemed to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of this Ordinance;

---

[1] *Inserted new clause (31A) by F.A. 2012*

[1][***]

[2][Provided that the amount representing the face value of any bonus share or the amount of any bonus declared, issued or paid by any company registered in Bangladesh under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) to its shareholders with a view to increase its paid-up share capital shall not be included as income of that share holder];

(35) "income year", in respect of any separate source of income, means-

(a) the financial year immediately preceding the assessment year; or

(b) where the accounts of the Assessee have been made up to a date within the said financial year and the Assessee so opts, the twelve months ending on such date; or

(c) in the case of a business or profession newly set up in the said financial year, the period beginning with the date of the setting up of the business or profession and -

(i) ending with the said financial year; or

(ii) where the accounts of the Assessee have been made up to a date within the said financial year and the Assessee so opts, ending on that date; or

(d) in the case of a business or profession newly set up in the twelve months immediately preceding the said financial year-

(i) if the accounts of the Assessee have been made up to a date within the said financial year and the period from the date of the setting up of the business or profession to the first-mentioned date does not exceed twelve months, then, at the option of the assesse, such period, or

(ii) if any period has been determined under sub-clause (e), then the period beginning with the date of the setting up of the business or profession and ending with the last day of that period, as the case may be; or

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[1] *Omitted by F.A. 1999*

[2] *Ins. by F.A. 2002*

(e) in the case of any person or class of persons or any business or profession or class of business or profession such period as may be determined by the Board or by such authority as the Board may authorize in this behalf;

(f) in respect of the assessee's share in the income of a firm of which the Assessee is a partner and the firm has been assessed as such, the period determined as the income year for the assessment of income of the firm;

(g) where in respect of a particular source of income an Assessee has once been assessed or where in respect of a business or profession newly set up, an Assessee has once exercised the option under sub-clause (b) or sub-clause (c) (ii) or sub-clause (d) (i) then, he shall not, in respect of that source, or, as the case may be, business or profession, be entitled to vary the meaning of the expression "income year" as then applicable to him, except with the consent of the Deputy Commissioner of Taxes upon such conditions as the Deputy Commissioner of Taxes may think fit to impose;

(36) "Inspecting Joint Commissioner" means a person appointed to be an Inspecting Joint Commissioner of Taxes under section 3, [1][and includes [2][an Inspecting Additional Commissioner of Taxes] [3][and also a person appointed to hold current charge of an Inspecting Joint Commissioner of Taxes];

[4][(37) "Inspector" means an Inspector of Taxes under section 3 and also includes a person appointed to hold charge of an Inspector of Taxes;]

(38) "Interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilized;

(39) "legal representative" has the same meaning as assigned to it in section 2(11) of the Code of Civil Procedure, 1908 (Act V of 1908);

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[1] *Ins. by F.O. 1986*
[2] *Subs for "a Senior Inspecting Joint Commissioner of Taxes" by F.A. 1991*
[3] *Ins. by F.A. 1999*
[4] *Subs. by F.A. 2012*

(40) "market value", in respect of agricultural produce, means -

(a) where such produce is ordinarily sold in the market in its raw state or after application to it of any process employed by a cultivator to render it fit to be taken to the market, the value calculated according to the average price at which it has been sold during the year previous to that in which the income derived from such produce first becomes assessable; and

(b) where such produce is not ordinarily sold in the market in its raw state, the aggregate of -

(i) the expenses of cultivation;

(ii) the land development tax or rent paid for the lands in which it was grown; and

(iii) such amount as the Deputy Commissioner of Taxes finds, having regard to the circumstances of each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce;

(41) "money borrowed" includes, in the case of a banking company, money received by way of deposit;

(42) "non-resident" means a person who is not a resident;

(43) "partner" has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932), and includes a person who, being a minor, has been admitted to the benefits of partnership;

(44) "partnership" has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932);

[1][(45) "perquisite" means-

(i) any payment made to an employee by an employer in the form of cash or in any other form excluding basic salary, festival bonus, incentive bonus not exceeding ten percent of disclosed profit of relevant income year, arrear salary, advance salary, leave encashment or leave fare assistance and over time, and

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[1] *Subs. by F.A. 2005 and again subs. by F.A. 2006*

(ii) any benefit, whether convertible into money or not, provided to an employee by an employer, called by whatever name, other than contribution to a recognized provident fund, approved pension fund, approved gratuity fund and approved superannuation fund;]

(46) "person" includes an individual, a firm, an association of persons, a Hindu undivided family, a local authority, a company and every other artificial juridical person;

(47) "prescribed" means prescribed by rules made under this Ordinance;

(48) "principal officer", used with reference to a local authority, a company, any other public body or any association of persons, includes-

(a) managing director, manager, secretary, treasurer, agent or accountant (by whatever designation known), or any officer responsible for management of the affairs, or of the accounts, of the authority, company, body or association; and

(b) any person connected with the management or the administration of the local authority, company, body or association upon whom the Deputy Commissioner of Taxes has served a notice of his intention to treat him as principal officer thereof ;

(49) "profession" includes a vocation;

(50) "profits in lieu of salary" includes-

(a) the amount of compensation due to, or received by, an Assessee from his employer at, or in connection with, the termination of, or the modification of any terms and conditions relating to, his employment; and

(b) any payment due to, or received by, an Assessee from a provident or other fund to the extent to which it does not consist of contributions by the Assessee and the interest on such contributions;

(51) "public servant" has the same meaning as in section 21 of the Penal Code (Act XLV of 1860);

(52) "recognized provident fund" means a provident fund which has been, and continues to be, recognized by the Commissioner in accordance with the provisions of Part B of the First Schedule;

[1][(53)***]

(54) "relative", in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant or descendant of that individual;

(55) "resident", in respect of any income year, means -

(a) an individual who has been in Bangladesh -

(i) for a period of, or for periods amounting in all to, one hundred and eighty two days or more in that year; or

(ii) for a period of, or periods amounting in all to, ninety days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, three hundred and sixty-five days or more during four years preceding that year;

(b) a Hindu undivided family, firm or other association of persons, the control and management of whose affairs is situated wholly or partly in Bangladesh in that year; and

(c) a Bangladeshi company or any other company the control and management of whose affairs is situated wholly in Bangladesh in that year;

(56) "royalty" means consideration (including any lump sum consideration but excluding any consideration which is classifiable as income of the recipient under the head "Capital gains") for -

(a) transfer of all or any rights, including the granting of a license in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(b) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(c) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;

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[1] *Omitted by F.A. 1995*

(d) the imparting of any information concerning technical, industrial, commercial, or scientific knowledge, experience or skill;

(e) the transfer of all or any rights, including granting of a license, in respect of any copyright, literary, artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for sale, distribution or exhibition of cinematograph films; or

(f) the rendering of any services in connection with any of the aforesaid activities;

(57) "rules" means rules made under this Ordinance;

(58) "salary" includes -

[1][(a) any pay or wages;]

(b) any annuity, pension or gratuity;

(c) any fees, commissions, allowances, perquisites or profits in lieu of, or in addition to, salary or wages;

(d) any advance of salary;

[2][(e) any leave encashment;]

(59) "scheduled bank" has the same meaning as in the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);

[3][(59A)***]

(60) "Shareholder" includes a preference shareholder;

(61) "speculation-business" means business in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, but does not include business in which -

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[1] *Subs. by F.A. 2012*
[2] *Ins. by F.A. 1999*
[3] *Ins. by F.O. 1986 and subsequently omitted by F.A. 1995*

(a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;

(b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and share through price fluctuations; and

(c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

[1][(62) "tax" means the income tax payable under this Ordinance and includes any additional tax, excess profit tax, penalty, interest, fee or other charges leviable or payable under this Ordinance;]

[2][(63)***]

(64) "Tax Recovery Officer" means a person appointed to be a Tax Recovery Officer under section 3;

(65) "total income" means the total amount of income referred to in section 17 computed in the manner laid down in this Ordinance, and includes any income which, under any provision of this Ordinance, is to be included in the total income of an Assessee;

(66) "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishment of any right therein, but does not include-

(a) any transfer of the capital asset under a gift, bequest, will or an irrevocable trust;

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[1] *Subs. by F.A. 2003 and again subs. by F.A. 2005*
[2] *Omitted by F.A. 1993*

(b) any distribution of the assets of a company to its shareholders on its liquidation; and

(c) any distribution of capital assets on the dissolution of a firm or other association of persons or on the partition of a Hindu undivided family;

[1][(67)***]

(68) "written down value" means the written down value as defined in the Third Schedule;

(69) "year" means a financial year.

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[1]*Omitted by F.A. 1995*

CHAPTER II
ADMINISTRATION

3. Income-tax authorities.- There shall be the following classes of income tax authorities for the purposes of this Ordinance, namely:-

(1) The National Board of Revenue,

[1][(1A)***]

[2][(1B) Chief Commissioner of Taxes;]

[3][(2) Directors-General of Inspection (Taxes),]

[4][(2A) Commissioner of Taxes (Appeals),]

[5][(2B) Commissioner of Taxes (Large Taxpayer Unit)];

[6][(2C) Director General (Training);]

[7][(2D) Director General, Central Intelligence Cell;]

(3) Commissioners of Taxes,

[8][(3A) Additional Commissioners of Taxes who may be either Appellate Additional Commissioner of Taxes or Inspecting Additional Commissioner of Taxes,]

(4) Joint Commissioner of Taxes who may be either Appellate Joint Commissioners of taxes or Inspecting Joint Commissioner of Taxes,

(5) Deputy Commissioners of Taxes,

[9][(6) Tax Recovery Officers nominated by the Commissioner of Taxes among the Deputy Commissioner of Taxes within his jurisdiction;]

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[1] *Ins. by F.O. 1986 and subsequently omitted by F.A. 1995*
[2] *Ins. by F.A 2011*
[3] *Subs. fir "director of Inspection" by F.A. 1993*
[4] *Ins by F.A. 1991*
[5] *Ins by F.A. 1999*
[6] *Ins by F.A. 2003*
[7] *Ins by F.A. 2004*
[8] *Ins by F.O. 1986 and subs. F.A. 1991*
[9] *Subs. by F.A 2011*

(7) Assistant Commissioners of Taxes,

(8) Extra Assistant Commissioners of Taxes; and

(9) Inspectors of Taxes

4. Appointment of income tax authorities.- (1) Subject to the rules and orders of the Government regulating the terms and conditions of service of persons in public services and posts, appointment of income tax authorities shall be made in accordance with the provisions of this Ordinance.

(2) The Board may appoint [1][[2][Chief Commissioner of Taxes, Director General] , Central Intelligence Cell,] [3][***] as many [4][Directors-General of Inspection], [5][Commissioners (Appeals)], Commissioners, Joint Commissioners of Taxes, Deputy Commissioners of Taxes, Tax Recovery Officers and Assistant Commissioners of Taxes and such other executive or ministerial officers and staff as it may think fit.

[6][(2A) Notwithstanding anything contained in this Ordinance, the Board may, with the approval of the government, appoint one or more person having appropriate professional skill and experience to perform such function as may be specified by an order issued in this behalf, and the person or persons so appointed shall be deemed to be an income-tax authority for the purposes of this Ordinance.]

(3) Subject to such orders or instructions as the Board may, from time to time, issue in this behalf, any other income tax authority may appoint any income tax authority subordinate thereto and such other executive or ministerial officers and staff as may be necessary for assistance in the execution or its functions.

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[1] *Ins. by F.A. 2010*

[2] *Subs. for "Director General" by F.A. 2011*

[3] *Ins. by F.O. 1986 and subsequently omitted by F.A. 1995*

[4] *Subs. for "Director of Inspection" by F.A. 1993*

[5] *Ins by F.A. 1990*

[6] *Ins. by F.A. 2003*

[1]**[4A. Delegation of powers.-** The Board may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, empower by name or designation,-

(a) any Inspecting Additional Commissioner of Taxes to exercise the powers of a Commissioner of Taxes [2][;]

(b) any Appellate Additional Commissioner of Taxes to exercise the powers of a Commissioner of Taxes (Appeals) [3][; and

(c) any Additional Director General or Joint Director General of Central Intelligence Cell to exercise the powers of Director General, Central Intelligence Cell.]

5. Subordination and control of income tax authorities.- [4][(1) The [5][***] [6][Chief Commissioner of Taxes, Director General] of Inspection, Commissioners (Appeals) and Commissioners shall be subordinate to the Board;]

(2) The [7][Additional Commissioners of Taxes, Joint Commissioners of Taxes], Deputy Commissioners of Taxes and Inspectors shall be subordinate to the Commissioners, [8][or the Commissioners (Appeals), as the case may be,] within whose jurisdiction they are appointed to perform their function:

Provided that no order, direction or instruction shall be given so as to interfere with the discretion of the Appellate Joint Commissioners [9][or the Commissioners (Appeals)], in the exercise of their appellate functions.

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[1]*Ins. by F.A. 1995*
[2] *Subs. semi-colon for ", and" by F.A. 2010*
[3]*Subs. " ; and" for full-stop and ins. clause (c) by F.A. 2010*
[4] *Subs. subs-sections (1) instead of sub-section (1) by F.A. 1993*
[5]*Omitted by F.A. 1995*
[6]*Subs. for "Director General" by F.A. 2011*
[7] *Subs. for "Joint Commissioners of taxes" by F.A. 1991*
[8] *Ins. by F.A. 1990*
[9] *Ins. by F.A. 1990*

(3) The Deputy Commissioners of Taxes and Inspectors shall be subordinate to the Inspecting Joint Commissioner within whose jurisdiction they perform their functions.

(4) The Inspectors shall be subordinate to the Deputy Commissioners of Taxes within whose jurisdiction they perform their functions.

6. Jurisdiction of income tax authorities.- (1) Subject to the provisions of this Ordinance,-

[1][(a)***]

[2][(aa) the Director-General of Inspection shall perform the following functions, namely:-

(i) carry out inspection of income tax cases;

(ii) investigate or cause investigation to be carried out in respect of cases involving leakage of revenue or evasion of taxes;

(iii) carry out audit of cases of offices involving income tax revenues only;

(iv) furnish annual report about the working of income tax offices dealing with revenue matters to the Board by the thirty first day of December following the end of the financial year to which it relates; and

(v) such other functions as may be assigned to them by the Board];

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[1] *Subs. by F.O 1986 and subsequently omitted by F.A. 1995*
[2] *Subs. F.O. 1986 and again subs. by F.A. 1997*

[1][(aaa) the Director General of Central Intelligence Cell shall perform the following functions, namely:-

(i) carry out intelligence works to gather information about taxpayers;

(ii) analyze information gathered through intelligence work vis-a-vis concerned income tax records;

(iii) detect tax evasions, concealments of income and offences as described in chapter XXI of Income Tax Ordinance, 1984;

(iv) carry out investigations to prove tax evasion or concealment or any other irregularities relating to taxes and to collect evidences in support of tax offences or tax frauds for recovery of tax with penalty and to suggest prosecutions in fit cases;

(v) to carry out functions as authorized by any other law.]

(b) the Commissioners [2][the Commissioner (Appeals)] and the Appellate Joint Commissioners shall perform their functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases, or such incomes or classes of incomes, as the Board may assign to them;

[3][(bb) the Commissioner (Large Taxpayer Unit) shall perform his functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases or such incomes or classes of incomes, as the Board may assign to him];

(c) the Inspecting Joint Commissioners and the Deputy Commissioners of Taxes shall perform their functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases, or such incomes or classes of incomes as the Commissioner to whom they are subordinate may assign to them ; and

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[1] *Ins. by F.O. 2007*
[2] *Ins. by F.A.1990*
[3] *Ins. by F.A. 1999*

(d) other income tax authorities shall perform such functions as may be assigned to them by the income tax authority to whom they are subordinate.

(2) (a) Any area or other jurisdiction or function assigned to an income tax authority under sub-section (1) may be modified or varied, or may be transferred to any other income tax authority with respect to areas, persons or classes of persons, or cases or classes of cases, or proceeding or classes of proceedings;

(b) any such transfer as is referred to in clause (a) may be made at any stage of the proceedings and further proceedings may be commenced from the stage at which such transfer takes place.

(3) Where more income tax authorities than one have been assigned the same functions in respect of any area, or persons or classes of persons, or cases or classes of cases, or incomes or classes of incomes, they shall perform those functions in accordance with such allocation or distribution of work as the authority assigning the functions may make.

(4) The powers of the Board, Commissioners and Deputy Commissioners of Taxes, to assign any case to any authority, or to transfer any case from one authority to another, or to perform any function or functions under this section, shall include the power in respect of all or any proceedings relating to such case; and except as provided in sub-section (5), no such assignment, transfer or performance of functions shall be called in question by or before any court or other authority.

(5) Any person aggrieved by any order passed under this section may, within thirty days of such order, make a representation -

(a) to the Inspecting Joint Commissioner if the order was passed by a Deputy Commissioner of Taxes;

(b) to the Commissioner, [1][The commissioners(Appeals)], if the order was passed by an Inspecting Joint Commissioner; and

(c) to the Board if the order was passed by a Commissioner;

and any order passed on such representation shall be final.

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[1] *Ins. by F.A. 1990 w.e.f. the date of appointment of Commissioner (Appeals)*

7. Exercise of jurisdiction by successor.- Where, in respect of any proceeding under this Ordinance, an income tax authority is succeeded by another, the income tax authority so succeeding may continue the proceeding from the stage at which it was left by his predecessor.

8. Officers, etc. to follow instructions of the Board.- All officers and other persons engaged in the performance of any functions under this Ordinance shall, in the matter of discharging those functions, observe and follow such orders, directions or instructions as the Board may issue from time to time:

Provided that no order, direction or instruction shall be given so as to interfere with the discretion of the Appellate Joint Commissioner [1][or the Commissioner (Appeals)] in the exercise of their appellate functions.

9. Guidance to the Deputy Commissioner of Taxes, etc.- In the course of any proceedings under this Ordinance, the Deputy Commissioner of Taxes may be assisted, guided or instructed by any income tax authority to whom he is subordinate or any other person authorized in this behalf by the Board.

10. Exercise of assessment functions by the Inspecting Joint Commissioners [1][and the Inspecting Additional Commissioners].- The Commissioner may, with prior approval of the Board, by general or a special order in writing, direct that in respect of all or any proceedings relating to specified cases or classes of cases or specified persons or classes of persons within his jurisdiction, the powers and functions of the Deputy commissioner of Taxes, [2][the Inspecting Joint Commissioner, the Inspecting Additional Commissioner] and the Commissioner under this Ordinance shall be exercised by [2][the Inspecting Joint Commissioner, the Inspecting Additional Commissioner], the Commissioner and the Board, respectively and for the purpose of any proceedings in respect of such cases or persons reference in this ordinance or the rules made thereunder to the Deputy Commissioner of Taxes, [2][the Inspecting Joint Commissioner, the Inspecting Additional Commissioner, or the Commissioner shall be deemed to be references to the [Inspecting Joint Commissioner, the Inspecting Additional Commissioner], the Commissioner and the Board, respectively.

CHAPTER - III
TAXES APPELLATE TRIBUNAL

11. Establishment of Appellate Tribunal.- (1) For the purpose of exercising the functions of the Appellate Tribunal under this ordinance, the Government shall establish a Taxes Appellate Tribunal consisting of a President and such other [1][***] members as the Government may, from time to time, appoint.

[2][(2)***]

[3][(3) A person shall not be appointed as a member of the Taxes Appellate Tribunal unless -

[4][(i) he was or is a member of the Board or holds the current charge of a member of the Board; or]

(ii) he was a Commissioner of Taxes; or

(iii)he is a Commissioner of Taxes; or

(iv) he is a chartered accountant and practiced professionally for a period not less than eight years; or

(v) he is a cost and management accountant and practiced professionally for a period not less than eight years; or

(vi) he is an income tax practitioner within the meaning of section 174(2)(f) and practiced professionally for not less than twenty years; or

(vii) he is a professional legislative expert having not less than eight years experience in the process of drafting and making financial and tax laws; or

(viii) he is an advocate and practiced professionally for not less than ten years in any income tax office [5][; or

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[1] *Omitted by F.A. 2002*

[2] *Subs. by F.A. 1991 and subsequently omitted by F.A. 2002*

[3] *Subs. Sub-sec (3) by F.A. 1991, subs. by F.A. 1996 and again subs. by F.A. 2002*

[4] *Subs. by F.A. 2009*

[5] *Subs. " ; or " for full-stop and ins. clause (ix) by F.A. 2010*

[1][(ix) he is, was or has been a District Judge.]

[2][(4) The Government shall appoint one of the members of the Appellate Tribunal to be the president thereof [3][, who is a member of the Board or holds the current charge of a member of the Board].

Explanation.- For the purpose of this section, period of practice as chartered accountant shall include any period of practice as chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) [4][or Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973)] or as registered accountant enrolled on the register of accountants under the Auditor's Certificate Rules, 1950.

12. Exercise of power of the Tribunal by Benches.- (1) Unless the president in any particular case or class of cases otherwise directs, the powers and functions of the Appellate Tribunal shall be exercised by Benches of the Appellate Tribunal, hereinafter referred to as Bench, to be constituted by the President.

(2) A Bench shall be so constituted that it has not less than two members [5][***]

[6][***]

13. Decision of Bench.-(1) Subject to the provisions of sub-sections (2) and (3), the decision of bench in any case or on any point shall be given in accordance with the opinion of the majority of its members.

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[1] *Subs. F.A. 2011*
[2] *Subs. F.A. 1996*
[3] *Ins. by F.A. 2010*
[4] *Ins. by F.A. 2001*
[5] *Omitted by F.A. 2002*
[6] *Omitted by F.A. 2001*

(2) Any point on which the members of a Bench are equally divided shall be stated in writing and shall be referred by the president to one or more other members of the Appellate Tribunal for hearing and the point shall be decided according to the majority of the members of the Appellate Tribunal who have heard it including those who first heard it.

(3) Where there are only two members of the Appellate Tribunal and they differ in any case, the Government may appoint an additional member of the Appellate Tribunal for the purpose of hearing the case; and the decision of the case shall be given in accordance with the opinion of the majority of the members of the Appellate Tribunal as constituted with such additional member.

14. Exercise of power by one member.- Notwithstanding anything contained in section 12, the Government may direct that the powers and functions of the Appellate Tribunal shall be exercised by any one of its members, or by two or more members jointly or severally.

15. Regulation of Procedure.- Subject to the provisions of this Ordinance, the Appellate Tribunal shall regulate its own procedure and the procedure of its Benches in matters arising out of the discharge of its functions including the places at which a Bench shall hold its sittings.

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[1] *Ins. by F.A. 1991*
[2] *Subs. for "the Inspecting Joint Commissioner" by F.A. 1991*

CHAPTER IV
CHARGE OF INCOME TAX

16. Charge of income tax.- (1) Where an Act of Parliament provides that income tax shall be charged for any assessment year at any rate or rates, income tax at that rate or those rates shall, subject to the provisions of that Act, be charged, levied, paid and collected in accordance with the provisions of this Ordinance in respect of the total income of the income year or income years, as the case may be, of every person :

Provided that where under the provisions of this Ordinance income tax is to be charged in respect of the income of a period other than the income year, income tax shall be charged, levied, paid and collected accordingly.

(2) Where under the provisions of this Ordinance income-tax is to be deducted at source, or paid or collected in advance, it shall be deducted, paid and collected accordingly.

(3) Notwithstanding anything contained in sub-section (1), income-tax shall be charged at the rates specified in the Second Schedule in respect of -

(i) a non-resident person, not being a company;

(ii) any income classifiable under the head "Capital gains"; and

(iii) any income by way of "winnings" referred to in section 19 (13).

[1]**[16A. Charge of surcharge.-** (1) Where any Act of Parliament enacts that a surcharge on income shall be charged for any assessment year at any rate or rates, such surcharge at that rate or those rates shall be charged for that year in respect of the total income of the income year or the income years, as the case may be, of every person.

(2) All the provisions of this Ordinance relating to charge, assessment, deduction at source, payment in advance, collection, recovery and refund of income tax shall, so far as may be, apply to the charge, assessment, deduction at source, payment in advance, collection, recovery and refund of the surcharge.]

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[1] *Ins. by F.A. 1988*

[1]**[16B. Charge of additional tax.-** Notwithstanding anything contained in section 46A, where a public limited company, not being a banking or insurance company, listed with any stock exchange in Bangladesh, has not issued, declared or distributed dividend or bonus share equivalent to at least fifteen percent of its paid up capital to its share holders within a period of six months immediately following any income year, the company shall be charged additional tax at the rate of five per cent on the undistributed profit in addition to tax payable under this Ordinance.

[2]***[Explanation.-*** For the purpose of this section, "undistributed profit" means accumulated profit including free reserve.]

16C. Charge of excess profit tax.- Where a banking company operating under ব্যাংক কোম্পানী আইন, ১৯৯১ (১৯৯১ সালের ১৪ নং আইন) shows profit in its return of income for an income year at an amount exceeding fifty per cent of its capital as defined under the said Act together with reserve, the company, in addition to tax payable under the Ordinance, shall pay an excess profit tax for that year at the rate of fifteen per cent on so much of profit as it exceeds fifty per cent of the aggregate sum of the capital and reserve as aforesaid.]

[3]**[(16CC.)***]**

[4]**[16CCC. Charge of minimum tax.-** Notwithstanding anything contained in any other provisions of this Ordinance, [5][every firm having gross receipts of more than taka fifty lakh or every company] shall, irrespective of its profits or loss in an assessment year for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax at the rate of [6][zero point three zero (0.30%)] per cent of the amount [7][representing such firm’s or company’s] gross receipts from all sources for that year.

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[1] *Ins. Sec. 16B and 16C by F.A. 2002*
[2] *Subs. by F.A. 2004*
[3] *Ins. Sec. 16CC by F.A. 2006 and subsequently omitted by F.A. 2008*
[4] *Ins. by F.A. 2011*
[5] *Subs. for " every company" by F.A.2013.*
[6] *Subs. by F.A. 2014*
[7] *Subs for "representing such company’s" by F.A. 2013*

Explanation: For the purposes of this section, 'gross receipts' means-

(a) all receipts derived from the sale of goods;

(b) all fees or charges for rendering services or giving benefits including commissions or discounts;

(c) all receipts derived from any heads of income.]

[1][(16D.)*]**

[2][16E)*]**

17. Scope of the total income.- (1) Subject to the provisions of this Ordinance, the total income of any income year of any person includes-

(a) in relation to a person who is a resident, all income, from whatever source derived, which-

(i) is received or deemed to be received in Bangladesh by or on behalf of such person in such year; or

(ii) accrues or arises, or is deemed to accrue or arise to him in Bangladesh during that year; or

(iii) accrues or arises to him outside Bangladesh during that year; and

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[1] *Ins. by F.A. 2003 and subsequently omitted by F.A. 2005*

[2] *Ins. 16E by F.A. 2010 and Omitted by F.A. 2013*

(b) in relation to a person who is a non-resident, all income from whatever source derived, which-

(i) is received or deemed to be received in Bangladesh by or on behalf of such person in such year; or

(ii) accrues or arises, or is deemed to accrue or arise, to him in Bangladesh during that year.

(2) Notwithstanding anything contained in sub-section (1), where any amount consisting of either the whole or a part of any income of a person has been included in his total income on the basis that it has accrued or arisen, or is deemed to have accrued or arisen, to him in any year, it shall not be included again in his total income on the ground that it is received or deemed to be received by him in Bangladesh in another year.

18. Income deemed to accrue or arise in Bangladesh.- The following income shall be deemed to accrue or arise in Bangladesh, namely:-

(1) any income which falls under the head "Salaries", wherever paid if-

(a) it is earned in Bangladesh; or

(b) it is paid by the Government or a local authority in Bangladesh to a citizen of Bangladesh in the service of such Government or authority;

(2) any income accruing or arising, whether directly or indirectly, through or from-

(a) any business connection in Bangladesh;

(b) any property, asset, right or other source of income in Bangladesh; or

(c) transfer of capital assets in Bangladesh:

Provided that in the case of a business all the operations of which are not carried out in Bangladesh, only such part of the income as is reasonably attributable to the operation carried out in Bangladesh shall be deemed to accrue or arise in Bangladesh;

(3) any dividend paid outside Bangladesh by a Bangladeshi company;

(4) any income by way of interest payable-

(a) by the Government; or

(b) by a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Bangladesh or for the purpose of making or earning any income from any source outside Bangladesh; or

(c) by a person who is a non-resident where the interest is in respect of any debt incurred, or moneys borrowed and used for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh;

(5) any income by way of fees for technical services payable-

(a) by the Government; or

(b) by a person who is a resident, except where such fees are payable in respect of services utilised in a business or profession carried on by any such person outside Bangladesh or for the purposes of making or earning any income from any source outside Bangladesh; or

(c) by a person who is non-resident where such fees are payable in respect of services utilised in a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.

(6) any income by way of royalty payable-

(a) by the Government; or

(b) by a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person outside Bangladesh or for the purposes of making or earning any income from any source outside Bangladesh; or

(c) by a person who is a non-resident where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.

19. Un-explained investments, etc., deemed to be income.- (1) Where any sum is found credited in the books of an Assessee maintained for any income year and the Assessee offers no explanation about the nature and source thereof, or the explanation offered is not, in the opinion of the Deputy Commissioner of Taxes, satisfactory, the sum so credited shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

(2) Where, in any income year, the Assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Deputy Commissioner of Taxes finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the Assessee for any source of income and the Assessee offers no explanation about the excess amount or the explanation offered is not, in the opinion of the Deputy Commissioner of Taxes, satisfactory, the excess amount shall be deemed to be the income of the Assessee for such income year classifiable under the head "Income from other sources".

(3) Where, in any income year, the Assessee has incurred any expenditure and he offers no explanation about the nature and source of the money for such expenditure, or the explanation offered is not in the opinion of the Deputy Commissioner of Taxes, satisfactory, the amount of the expenditure shall be deemed to be the income of the Assessee for such income year classifiable under the head "Income from other sources".

(4) Where, in the financial year immediately preceding the assessment year, the Assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the Assessee offers no explanation about the nature and source of fund for the investments, or the explanation offered is not, in the opinion of the Deputy Commissioner of Taxes, satisfactory, the value of the investments shall be deemed to be the income of the Assessee for such financial year classifiable under the head "Income from other sources".

(5) Where, in the financial year immediately preceding the assessment year, the Assessee is found to be the owner of any money, bullion, jewellery or other valuable article which is not recorded in the books of account, if any, maintained by him for any source of income, and the Assessee offers no explanation about the nature and source of fund for the acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered is not, in the opinion of the Deputy Commissioner of Taxes, satisfactory, the money or the value of the bullion, jewellery or other valuable article, shall be deemed to be the income of the Assessee for such financial year classifiable under the head "Income from other sources".

(6) Any income derived by an Assessee in any income year (hereinafter in this sub-section referred to as the said income year) from any business or profession, which has been or was, discontinued at any time before the commencement, or during the course, of the said income year shall, if such income would have been chargeable to tax if it had been received in the income year in which it accrued or arose, be deemed to be income chargeable to tax from such business or profession which shall, for the purposes of this Ordinance, be deemed to have been carried on before the commencement, or during the course, of the said income year.

(7) Any dividend declared or distributed by a company shall be deemed to be the income of the [1][income year in which it is received] and shall be included in the total income of the Assessee of that year.

(8) Where any assets, not being stock-in-trade or stocks, and shares, are purchased by an Assessee from any company and the Deputy Commissioner of Taxes has reason to believe that the price paid by the Assessee is less than the fair market value thereof, the difference between the price so paid and the fair market value shall be deemed to be income of the Assessee classifiable under the head "Income from other sources".

(9) Where any lump sum amount is received or receivable by an Assessee during any income year on account of salami or premia receipts by virtue of any lease, such amount shall be deemed to be income of the Assessee of the income year in which it is received and classifiable under the head "Income from other sources":

Provided that at the option of the Assessee such amount may be allocated for the purpose of assessment proportionately to the years covered by the entire lease period, but such allocation shall in no case exceed five years.

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[1] *Subs. for "income year in which it is declared" by F.O. 2007*

(10) Where any amount is received by an Assessee during any income year by way of goodwill money or receipt in the nature of compensation or damages for cancellation or termination of contracts and licenses by the Government or any person, such amount shall be deemed to be the income of such Assessee for that income year classifiable under the head "Income from other sources".

(11) Where any benefit or advantage, whether convertible into money or not, is derived by an Assessee during any income year on account of cancellation of indebtedness [1][***], the money value of such advantage or benefit shall be deemed to be his income for that income year classifiable under the head "Income from other sources":

[2]*[Provided that the provisions of this sub-section shall not apply in case of a loan or interest waived in respect of an Assessee by a commercial bank including Bangladesh Krishi Bank, Rajshahi Krishi Unnyan Bank,* [3]*[Bangladesh Development Bank Ltd]. or a leasing company or a financial institution registered under আর্থিক প্রতিষ্ঠান আইন,১৯৯৩ (১৯৯৩ সনের২৭ নং আইন)];*

(12) Any managing agency commission including compensation received during any income year by an Assessee for termination of agencies or any modification of the terms and conditions relating thereto shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

(13) Any amount received by an Assessee during any income year by way of winnings from lotteries, crossword puzzles, card games and other games of any sort or from gambling or betting in any form or of any nature whatsoever shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

(14) Any profits and gains derived in any income year from any business of insurance carried on by a mutual insurance association computed in accordance with the provisions of paragraph 8 of the fourth schedule shall be deemed to be the income of such association for that income year.

(15) Where, for the purpose of computation of income of an Assessee under section 28, any deduction has been made for any year in respect of any loss, bad debt, expenditure or trading liability incurred by the Assessee, and-

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[1] *Omitted by F.A. 1999*
[2] *Subs. by F.A. 2003*
[3] *Subs. by F.A. 2014*

(a) subsequently, during any income year, the Assessee has received, [1][except as provided in clause (aa)] whether in cash or in any other manner whatsoever, any amount in respect of such loss, bad debt, or expenditure, the amount so received shall be deemed to be his income from business or profession during that income year;

[2][(aa) such amount on account of any interest which was to have been paid to any commercial bank or the [3][Bangladesh Development Bank Ltd.] or on account of any share of profit which was to have been paid to any bank run on Islamic principles and which was allowed as a deduction in respect of such expenditure though such interest or share of profit was not paid by reason of the Assessee having maintained his accounts on mercantile basis, within [4][three years] after expiry of the income year in which it was allowed, shall, to such extent as it remains unpaid, be deemed to be income of the Assessee from business or profession during the income year immediately following the expiry of the said [4][three years;]

(b) the Assessee has derived, during any income year, some benefit in respect of such trading liability, the value of such benefit, if it has not already been treated as income under clause (c), shall be deemed to be his income from business or profession during that income year;

(c) such trading liability or portion thereof as has not been paid within three years of the expiration of the income year in which deduction was made in respect of the liability, such liability or portion, as the case may be, shall be deemed to be the income of the Assessee from business or profession during the income year immediately following the expiry of the said three years;

and the business or profession in respect of which such allowance or deduction was made shall, for the purposes of section 28, be deemed to be carried on by the Assessee in that year:

[5]*[Provided that where any interest or share of profit referred to in clause (aa) or a trading liability referred to in clause (c) is paid in a subsequent year, the amount so paid shall be deducted in computing the income in respect of that year.]*

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[1] *Ins. by F.A. 1991*
[2] *Ins. by F.A. 1991*
[3] *Subs. by F.A. 2014*
[4] *Subs. for "two years" by F.A. 1999*
[5] Subs. by F.A. 2003

(16) Where any building, machinery or plant having been used by an Assessee for purpose of any business or profession carried on by him is disposed of during any income year and the sale proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the Assessee for that income year classifiable under the head "Income from business or profession".

(17) Where any machinery or plant exclusively used by an Assessee for agricultural purposes has been disposed of in any income year and the sale proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the Assessee for that income year classifiable under the head "Agricultural income".

(18) Where any insurance, salvage or compensation moneys are received in any income year in respect of any building, machinery or plant which having been used by the Assessee for the purpose of business or profession is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such building, machinery or plant, so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be the income of the Assessee for that income year classifiable under the head "Income from business or profession".

(19) Where any insurance, salvage or compensation moneys are received in any income year in respect of any machinery or plant which having been used by the Assessee exclusively for agricultural purpose is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such machinery or plant, so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be the income of the Assessee for that income year classifiable under the head "Agricultural income".

(20) Where an asset representing expenditure of a capital nature on scientific research within the meaning of section 29 (1) (xx) is disposed of during any income year, so much of the sale proceeds as does not exceed the amount of the expenditure allowed under the said clause shall be deemed to be the income of the Assessee for that income year classifiable under the head "Income from business or profession".

Explanation 1.- For the purposes of this sub-section and sub-sections (16) and (17), "sale proceeds" shall have the same meaning as in the Third Schedule.

Explanation 2.- For the purposes of this sub-section and sub-sections (16) and (18), the business or profession in which the building, machinery, plant or assets, as the case may be, was used before its disposal, shall be deemed to be carried on by the Assessee during the income year in which such disposal takes place.

[1][(21) Where any sum, or aggregate of sums [2][not exceeding taka five lakh] is claimed or shown to have been received as loan by an Assessee [3][, not being a company] during any income year from any person, not being a banking company or a financial institution, otherwise than by a crossed cheque drawn on a bank, and has not been paid back in full within [4][three years] from the end of the income year in which it is claimed or shown to have been received, the said sum or part thereof which has not been paid back, shall be deemed to be the income of the Assessee for the income year immediately following the expiry of the said [4][three years] and be classifiable under the head "Income from other sources":

Provided that where the loan referred to in this sub-section is paid back in a subsequent income year, the amount so paid shall be deducted in computing the income in respect of that subsequent year.]

[5][(21A) Where any sum is claimed to have been received by an Assessee as loan or gift during any income year from a person who has transferred the sum within the period of limitation stipulated in the rule made under this Ordinance, from the initial capital of his business or profession shown in his return filed under section 83A, the amount of such loan or gift so received by the Assessee shall be deemed to be his income of the year in which such loan or gift was received and shall be classifiable under the head "income from other sources.”]

[6][(21B) Where any sum, shown as initial capital of business or profession in return of income filed under section 82BB, is [7][transferred by a person partly or fully from that business or profession within the period of limitation] stipulated in the said section, the sum so transferred shall be

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[1] Ins. sub-sec. (21) by F.A. 1993

[2] Subs. for "exceeding taka one lakh" by F.A. 2012

[3] Ins by F.A. 2012.

[4] Subs. for "two years" by F.A. 1999

[5] Ins. by F.A. 2002.

[6] Ins. by F.A. 2011 .

[7] Subs. for "transferred by A person partly or fully within the period of limitation" by F.A. 2012

deemed to be his income of the year in which such sum was transferred and shall be classifiable under the head "Income from other sources".;]

[1][(22) Where an Assessee, being the owner of a house property, receives from any person to whom such house property or any part thereof is let out any amount which is not adjustable against the rent payable, the amount so received shall be deemed to be the income of the Assessee for the income year in which it is received and be classifiable under the head "Income from house property":

Provided that at the option of the Assessee such amount may be allocated, for the purpose of assessment in equal proportion to the year in which such amount is received and the four years next following:

Provided further that where such amount or part thereof is refunded by the Assessee in a subsequent income year the amount so refunded shall be deducted in computing the income of the Assessee in respect of that income year.]

[2][(23) Where during any income year an Assessee, being an exporter of garments, transfers to any person, the export quota or any part thereof allotted to him by the Government, such portion of the export value of the garments exportable against the quota so transferred as may be prescribed for this purpose shall be deemed to be the income of the Assessee for that income year, classifiable under the head "Income from business or profession".]

[3][(24) Where a company, not listed with any stock exchange, receives paid up capital from any shareholder during any income year in any other mode excepting by crossed cheque or bank transfer, the amount so received as paid up capital shall be deemed to be the income of such company for that income year and be classifiable under the head "Income from other sources".;]

[4][(25)***]

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[1] *Ins by Sub-sec.(22) by F.A. 1993*
[2] *Ins. Sub-sec. (23) by F.A. 1993*
[3] *Subs. by F.A. 2012*
[4] *Omitted by F.O. 2007*

[1][(26)Where an Assessee, being a company, receives any amount as loan [2][from any other person] otherwise than by a crossed cheque or by bank transfer, the amount so received shall be deemed to be the income of such Assessee for that income year in which such loan was taken and shall be classifiable under the head "Income from other sources"[3][:

Provided that where the loan or part thereof referred to in this sub-section is repaid in a subsequent income year, the amount so repaid shall be deducted in computing the income for that subsequent year.]

(27)Where an Assessee, being a company, purchases directly or on hire one or more motor car or jeep and value of any motor car or jeep exceeds ten percent of its paid up capital, then fifty percent of the amount that exceeds such ten percent of the paid up capital shall be deemed to be the income of such Assessee for that income year classifiable under the head "Income from other sources".]

[4] [(28) Where an Assessee, being an individual, receives any sum or aggregate of sums exceeding taka five lakh as loan or gift from any other person otherwise than by a crossed cheque or by bank transfer, the amount so received shall be deemed to be the income of such Assessee for that income year in which such loan or gift was taken and shall be classifiable under the head " Income from other sources".]

[5][(19A.)*]**

[6] [(19AA.)*]**

[7] [(19AAA.)*]**

[8] [(19B.)*]**

[9] [(19BB.)*]**

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1 Ins. sub-sections (26) and (27) by F.A. 2011

2 Subs for "from any other company" by F.A. 2012

3 Ins by F.A. 2014

4 Ins. sub-section (28) by F.A. 2012

5 Subs. by F.A. 2009 and subsequently omitted by F.A. 2010

6 Subs. by F.A. 2009 and subsequently omitted by F.A. 2010

7 Subs. by F.A. 2009 and subsequently omitted by F.A. 2010

8 Section 19B inserted by F.A. 1999 and subsequently omitted by F.O. 2007

9 Section 19BB inserted by F.A. 2002 and subsequently omitted by F.O. 2007

[2] [(19BBB.)*]**

[3] [(19BBBB.)*]**

[4]**[19BBBBB. Special tax treatment in respect of investment in residential building and apartment.–** (1) Notwithstanding anything contained in this Ordinance, source of any sum invested by any person, in the construction or purchase of any residential building or apartment, shall be deemed to have been explained if the Assessee pays, before the assessment for the relevant assessment year in which the investment is completed, tax at the following rate –

(a) for building or apartment situated in the area of Gulshan Model Town, Banani, Baridhara, Motijheel Commercial Area and Dilkusha Commercial Area of Dhaka-

(i) taka five thousand per square meter in the case of a building or apartment the plinth area of which does not exceed two hundred square meter;

(ii) taka seven thousand per square meter in the case of a building or apartment the plinth area of which exceeds two hundred square meter;

(b) for building or apartment situated in the area of Dhanmandi Residential Area, Defence Officers Housing Society (DOHS), Mahakhali, Lalmatia Housing Society, Uttara Model Town, Bashundhara Residential Area, Dhaka Cantonment, Kawran Bazar, Bijaynagar, Segunbagicha, Nikunja of Dhaka, and Panchlaish, Khulshi, Agrabad and Nasirabad Area of Chittagong-

(i) taka four thousand per square meter in the case of a building or apartment the plinth area of which does not exceed two hundred square meter;

(ii) taka five thousand per square meter in the case of a building or apartment the plinth area of which exceeds two hundred square meter;

(c) for building or apartment situated in the area of any City Corporation other than areas mentioned in clauses (a) or (b)-

(i) taka two thousand per square meter in the case of a building or apartment the plinth area of which does not exceed two hundred square meter;

(ii) taka three thousand per square meter in the case of a building or apartment the plinth area of which exceeds two hundred square meter;

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[1] *Section 19BBB inserted by F.A. 2004 and subsequently omitted by F.O. 2007*

[2] *Ins. by F.A. 2009 and subsequently omitted by F.A. 2010*

[3] *Ins. sec 19BBBBB by F.A. 2013*

(d) for building or apartment situated in the area of a Paurasabha of any district headquarters-
   (i) taka one thousand per square meter in the case of a building or apartment the plinth area of which does not exceed two hundred square meter;
   (ii) taka one thousand and five hundred per square meter in the case of a building or apartment the plinth area of which exceeds two hundred square meter;

(e) for building or apartment situated in the area other than the areas mentioned in clauses (a) to (d)-
   (i) taka seven hundred per square meter in the case of a building or apartment the plinth area of which does not exceed two hundred square meter;
   (ii) taka one thousand per square meter in the case of a building or apartment the plinth area of which exceeds two hundred square meter.

(2) The rate of tax mentioned in sub-section (1) shall be twenty per cent higher in case where the Assessee already owns a building or apartment in any City Corporation before such investment is completed; or the Assessee makes such investment in two or more buildings or apartments.

(3) The provision of this section shall not apply where the source of such investment, made by the Assessee for the purchase or construction of such residential building or apartment, is-
   (a) derived from any criminal activities under any other law for the time being in force; or
   (b) not derived from any legitimate source.]

[1]**[19C. Special tax treatment in respect of investment in the purchase of bond under Bangladesh Infrastructure Finance Fund.-**Notwithstanding anything contained in any other provision of this Ordinance, no question as to the source of any sum invested by any person in the purchase of bond issued or caused to be issued under Bangladesh Infrastructure Finance Fund during the period between the first day of July, 2010 and thirtieth day of June, 2012 (both days inclusive), shall be raised if the Assessee pays, before the filing of return of income for the relevant income year, tax at the rate of ten per cent on such sum invested.]

[2]**[19D***].**

[3]**[19E. Voluntary disclosure of income.-** (1) Notwithstanding anything contained in this Ordinance, any person-

(a) who has not been assessed to tax for previous assessment year or years and he has not submitted return of income for those year or years may disclose such income in the respective heads of income in the return of income along with the income for the current assessment year; or

(b) who has been assessed to tax for previous assessment year or years and any income has escaped assessment in those assessments or the amount of income assessed is less than the actual income, may disclose that income for respective heads of income in the return of income along with the income for the current assessment year.

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[1] *Ins. section 19C by F.A. 2010*
[2] *Ins. section 19D by F.A. 2011 and omitted by F.A. 2014*
[3] *Ins. new section 19E by F.A. 2012*

(2) Return of income mentioned in sub-section (1) shall be treated as valid, if-

(a) the Assessee pays before the submission of return-

(i) tax payable at applicable rate on total income including such income under respective heads of income; and

(ii) penalty at the rate of ten percent of tax proportionate to such income under respective heads of income;

(b) the return of income is submitted within the time specified in sub-section (2) of section 75; and

(c) a declaration is enclosed with the return of income in respect of the following:

(i) name of the person declaring;

(ii) head of the declared income and amount thereof; and

(iii) amount of tax and penalty paid thereof.

(3) The provision of this section shall not apply, where-

(a) a notice under clause (b) of sub-section (3) of section 93 has been issued before submission of such return of income;

(b) a notice on a banking company under clause (f) of section 113 has been issued before submission of such return of income;

(c) any proceeding under sections 164, 165 or 166 has been initiated before submission of such return of income; or

(d) Any income declared under this section is-

(i) not derived from any legitimate source of income ; or

(ii) derived from any criminal activities under any other law for the time being in force.

(4) the income shown under this section may be invested in any income generating activities or any sector including the following:

(a) industrial undertaking including its expansion;

(b) balancing , modernization, renovation and extension of an existing industry;

(c) building or apartment or land;

(d) securities listed with a Stock Exchange in Bangladesh; or

(e) any trade, commercial, or industrial venture engaged in production of goods or services.]

CHAPTER V
COMPUTATION OF INCOME

20. Heads of income.- Save as otherwise provided in this Ordinance, all incomes shall, for the purpose of charge of income tax and computation of total income, be classified and computed under the following heads of income, namely:-

(a) Salaries.

(b) Interest on securities.

(c) Income from house property.

(d) Agricultural income.

(e) Income from business or profession.

(f) Capital gains.

(g) Income from other sources.

21. Salaries.- (1) The following income of an Assessee shall be classified and computed under the head "Salaries", namely:-

(a) any salary due from an employer to the Assessee in the income year, whether paid or not;

(b) any salary paid or allowed to him in the income year, by or on behalf of an employer though not due or before it became due to him; and

(c) any arrears of salary paid or allowed to him in the income year by or on behalf of an employer, if not charged to income-tax for any earlier income year.

(2) Where any amount of salary of an Assessee is once included in his total income of an income year on the basis that it had become due or that it had been paid in advance in that year, that amount shall not again be included in his income of any other year.

22. Interest on securities.- The following income of an Assessee shall be classified and computed under the head "Interest on securities", namely:-

(a) interest receivable by the Assessee on any security of [1][the Government or any security approved by Government]; and

(b) interest receivable by him on debentures or other securities of money issued by or on behalf of a local authority or a company.

23. Deductions from interest on securities.- (1) In computing the income under the head "Interest on securities", the following allowances and deduction shall be made, namely:-

(a) any sum deducted from interest by way of commission or charges by a bank realizing the interest on behalf of the Assessee;

(b) any interest payable on money borrowed for the purpose of investment in the securities by the Assessee:

[2]*[Provided that no allowance or deduction on account of any interest or commission paid under clause (a) or (b), as the case may be, in respect of, or allocable to the securities of Government which have been issued with the condition that interest thereon shall not be liable to tax, shall be made in computing the income under section 22.;]*

[3][(c)***]

(2) Notwithstanding anything contained in sub-section (1), no deduction shall be allowed under this section in respect of any interest payable outside Bangladesh on which tax has not been paid or deducted in accordance with the provisions of Chapter VII.

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[1] *Subs. for "the Government" by F.A. 2004*
[2] *Ins. by F.A. 1995*
[3] *Omitted by F.A. 1995*

24. Income from house property.- (1) Tax shall be payable by an Assessee under the head "Income from house property" in respect of the annual value of any property [1][, whether used for commercial or residential purposes,] consisting of any building [2][, furniture, fixture, fittings etc.] and lands appurtenant thereto of which he is the owner, other than such portions of the property as he may occupy for the purposes of any business or profession carried on by him, the income from which is assessable to tax under this Ordinance.

(2) Where any such property as is referred to in sub-section (1) is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not constitute and shall not be deemed to be, an association of persons; and for the purpose of computation of the income of an Assessee in respect of that property, only such part of such income as is proportionate to the share of the Assessee shall be reckoned as his income from that property.

25. Deductions from income from house property.- (1) In computing the income under the head "Income from house property" the following allowances and deductions shall be made, namely:-

(a) any sum payable to Government as land development tax or rent on account of the land comprised in the property;

(b) the amount of any premium paid to insure the property against risk of damage or destruction;

[3][(c)***]

(d) where the property is subject to mortgage or other capital charge for the purpose of extension or reconstruction or improvement, the amount of any interest payable on such mortgage or charge;

(e) where the property is subject to an annual charge not being a capital charge, the amount of such charge;

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[1] *Ins. by F.A. 2002*
[2] *Ins. by F.A. 2009*
[3] *Omitted by F.A. 1992*

Explanation.- The expression "annual charge", as used in this clause, includes any tax leviable, in respect of property or income from property, by local authority or Government but does not include the tax leviable under this Ordinance;

(f) where the property is subject to a ground rent, the amount of such rent;

(g) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital [1][from bank or financial institution], the amount of any interest payable on such capital [2][; [3][:

*(Prov).***]*

[4][(gg) Where the property has been constructed with borrowed capital [5][from bank or financial institution] and no income under section 24 was earned from that property during the period of such construction, the interest payable during that period on such capital, in three equal proportionate installments for subsequent first three years for which income is assessable from that property;]

[6][(h) in respect of expenditure for repairs, collection of rent, water and sewerage, electricity and salary of darwan, security guard, pump-man, lift-man and caretaker and all other expenditure related to maintenance and provision of basic services:

(i) an amount equal to one fourth of the annual value of the property where the property is used for residential purpose;

(ii) an amount equal to thirty per cent of the annual value of the property where the property is used for commercial purpose;]

[7][(i)***]

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[1] *Ins.by F.A. 2014*
[2] *Subs. "semi-colon" for "colon" and omitted proviso by F.A. 2012*
[3] *Subs. "colon" for "semi-colon" and ins. new proviso by F.O. 2007*
[4] *Ins. by F.A. 2002*
[5] *Ins by F.A. 2014*
[6] *Subs. by F.A. 2000 and again subs. by F.A. 2004*
[7] *Omitted by F.A. 1992*

(j) where, the whole of the property is let out and it was vacant during a part of the year, a sum equal to such portion of the annual value of the property as is proportionate to the period of the vacancy; and

(k) where, the property is let out in parts, a sum equal to such portion of the annual value appropriate to the vacant part as is proportionate to the period of the vacancy of such part.

(2) Notwithstanding anything contained in sub-section (1), no deduction shall be allowed under this section in respect of any interest or annual charge payable outside Bangladesh on which tax has not been paid or deducted in accordance with the provisions of Chapter VII.

[1][(3)***]

26. Agricultural income.- (1) The following income of an Assessee shall be classified and computed under the head "Agricultural income", namely:-

(a) any income derived by the Assessee which comes within the meaning of "agricultural income" as defined in section 2(1);

(b) the excess amount referred to in section 19(17);

(c) the excess amount referred to in section 19(19).

(2) Agricultural income derived from the sale of tea grown and manufactured by the Assessee shall be computed in the prescribed manner.

(3) Where the Board, by notification in the official Gazette, so directs, agricultural income from the sale of rubber, tobacco, sugar or any other produce grown and manufactured by the Assessee may be computed in the manner prescribed for the purpose.

27. Deductions from agricultural income.- (1) In computing the income under the head "Agricultural income", the following allowances and deductions shall be made, namely:-

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[1] *Omitted by F.A. 1992*

(a) any land development tax or rent paid in respect of the land used for agricultural purposes;

(b) any tax, local rate or cess paid in respect of the land used for agricultural purposes, if such tax, rate or cess is not levied on the income arising or accruing, or deemed to accrue or arise, from agricultural operations or is not assessed at a proportion or on the basis of such income;

(c) (i) subject to sub-clauses (ii) and (iii), the cost of production, that is to say, the expenditure incurred for the following purposes, namely:-

(a) for cultivating the land or raising livestock thereon;

(b) for performing any process ordinarily employed by a cultivator to render marketable the produce of the land;

(c) for transporting the produce of the land or the livestock raised thereon to the market; and

(d) for maintaining agricultural implements and machinery in good repair and for providing upkeep of cattle for the purpose of cultivation, processing or transportation as aforesaid;

(ii) where books of accounts in respect of agricultural income derived from the land are not maintained, the cost of production to be deducted shall, instead of the expenditure mentioned in sub-clause (i), be sixty per cent of the market value of the produce of the land;

(iii) no deduction on account of cost of production shall be admissible under this clause if the agricultural income is derived by the owner of the land from the share of the produce raised through any system of sharing of crop generally known as *adhi, barga or bhag;*

(d) any sum paid as premium in order to effect any insurance against loss of, or damage to, the land or any crop to be raised from, or cattle to be reared on, the land;

(e) any sum paid in respect of the maintenance of any irrigation or protective work or other capital assets ; and such maintenance includes current repairs and, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;

(f) a sum calculated at the rate as provided in the Third Schedule on account of depreciation in respect of irrigation or protective work or other capital assets constructed or acquired for the benefit of the land from which agricultural income is derived or for the purpose of deriving agricultural income from the land, if the required particulars are furnished by the Assessee;

(g) where the land is subject to a mortgage or other capital charge for purposes of reclamation or improvement, the amount of any interest paid in respect of such mortgage or charge;

(h) where the land has been acquired, reclaimed or improved by the use of borrowed capital, the amount of any interest paid in respect of such capital;

(i) where any machinery or plant which has been used by the Assessee exclusively for agricultural purposes has been discarded, demolished or destroyed in the income year, the amount actually written off on that account in the books of accounts of the Assessee,-

> (i) subject to the maximum of the amount by which the written down value of the machinery or plant exceeds the scrap value thereof if no insurance, salvage or compensation money has been received in respect of such machinery or plant; and
>
> (ii) subject to the maximum of the amount by which the difference between the written down value and the scrap value exceeds the amount of insurance, salvage or compensation money received in respect of such machinery or plant;

(j) where any machinery or plant which has been used by the Assessee exclusively for agricultural purposes has been sold or transferred by way of exchange in the income year, the amount actually written off on that account in the books of accounts of the Assessee, subject to the maximum of the amount by which the written down value of the machinery or plant exceeds the amount for which it has been actually sold or transferred; and

(k) any other expenditure, not being in the nature of capital expenditure or personal expenditure, laid out wholly and exclusively for the purpose of deriving agricultural income from the land.

(2) Notwithstanding anything contained in sub-section (1), no deduction shall be allowed under this section in respect of any interest on which tax has not been paid or deducted in accordance with the provisions of Chapter VII.

28. Income from business or profession.- (1) The following income of an Assessee shall be classified and computed under the head "Income from business or profession", namely :-

(a) profits and gains of any business or profession carried on, or deemed to be carried on, by the Assessee at any time during the income year;

(b) income derived from any trade or professional association or other association of like nature on account of specific services performed for its members;

(c) value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;

(d) the amount, the value of the benefit and the trading liability referred to in section 19(15);

(e) the excess amount referred to in section 19(16);

(f) the excess amount referred to in section 19(18);

(g) the sale proceeds referred to in section 19(20);

[1][(h) the amount of income under section 19(23).]

Explanation.- Where speculative transactions carried on by an Assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

(2) Notwithstanding anything contained in this Ordinance,-

(a) the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the provisions of the Fourth Schedule;

(b) the profits and gains from the exploration and production of petroleum (including natural gas) and the tax payable thereon shall be computed in accordance with the provisions of Part A of the Fifth Schedule;

(c) the profits and gains of any business which consists of, or includes, the exploration and extraction of such mineral deposits of a wasting nature (not being petroleum and natural gas) as may be specified in this behalf by the Government, carried on by an Assessee in Bangladesh shall be computed in accordance with the provisions of Part B of the Fifth Schedule.

[2][(3) Notwithstanding anything to the contrary contained in any other provisions of this Ordinance, in the case of [3][Bangladesh Development Bank Ltd.] [4][, Investment Corporation of Bangladesh] and any commercial bank including the Bangladesh Krishi Bank and Rajshahi Krishi Unnayan Bank, the income by way of interest in relation to such categories of bad or doubtful debts as the Bangladesh Bank may classify in the income year in which it is credited to its profit and loss account for that year or, as the case may be, in which it is actually received, whichever is earlier.]

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[1] *Ins. by F.A. 1994*
[2] *Ins. by F.A. 1996*
[3] *Subs. by F.A. 2014*
[4] *Ins. by F.A. 1999*

29. Deductions from income from business or profession.- (1) In computing the income under the head "Income from business or profession", the following allowances and deductions shall be allowed, namely:-

(i) the amount of any rent paid for the premises in which the business or profession is carried on:

Provided that if a substantial part of the premises is used by the Assessee as a dwelling-house, the amount shall be a proportionate part of the rent having regard to the proportionate annual value of the part so used;

(ii) the amount paid for the repair of the hired premises in which the business or profession is carried on if the Assessee has undertaken to bear the cost of such repair;

Provided that if a substantial part of the premises is used by the Assessee as a dwelling-house, the amount shall be a proportionate part of the sum paid for such repair having regard to the proportionate annual value of the part so used;

(iii) the amount of any interest paid or any profit shared with a bank run on Islamic principles in respect of capital borrowed for the purposes of the business or profession:

Provided that if any part of such capital relates to replenishing the cash or to any other asset transferred to [1]*[any other entity, when lending of money is not the business of transferor], the amount shall be proportionate part of the interest so paid or the profit so shared having regard to the proportion of such capital so used;*

(iv) any sum paid or credited to any person maintaining a profit and loss sharing account or deposit with a bank run on Islamic principles by way of distribution of profits by the said bank in respect of the said account of deposit;

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[1] *Subs. for "a newly set up industrial undertaking or to an extension of an existing industrial undertaking whose income is exempted from payment of tax" by F.O. 2007*

(v) an amount not exceeding [1][five percent] of the total income carried to any special reserve created by such financial institution and for such purposes as may be approved by the Government in this behalf, if the aggregate amount standing in such reserve does not exceed the paid up share capital of the institution;

(vi) the amount paid on account of current repairs to buildings, machinery, plant or furniture used for the purposes of the business or profession;

(vii) the whole or the proportionate part of the amount of any premium paid for insurance, against risk of damage, destruction or loss of buildings, machinery, plant or furniture, stocks or stores according as the whole or part thereof is used for the purposes of the business or profession;

(viii) in respect of depreciation of building, machinery, plant or furniture, being the property of the Assessee [2][or bridge or road or fly over owned by a physical infrastructure undertaking] and used for the purposes of business or profession, the allowances as admissible under the Third Schedule;

[3][(viiia) in respect of amortization of license fees as admissible under the Third Schedule;]

(ix) in the case of a ship, being a passenger vessel plying ordinarily on inland waters, or a fishing trawler, which is entitled to a special depreciation allowance under paragraph 8 of the Third Schedule, an investment allowance of an amount equivalent to twenty percent of the original cost to the Assessee for the year in which the ship or the trawler is first put to use for public utility;

[4][(x)***]

[5][(xa)***]

(xi) where any building , machinery or plant which, after having been used by the Assessee for the purpose of his business, has been discarded, demolished or destroyed in any income year or any such asset has been sold, transferred by way of exchange or compulsorily acquired by a legally competent authority or

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[1] Subs. for "ten percent" by F.O. 2007
[2] Ins. by F.A. 2010
[3] Ins.by F.A. 2013
[4] Omitted by F.A. 2005
[5] Ins. by F.A. 1989 and subsequently Omitted by F.A. 2004

exported outside Bangladesh in any income year, an obsolescence allowance to the extent and computed in the manner specified in paragraph 10 of the Third Schedule;

(xii) in the case of any animal which has been used by the Assessee for the purpose of business or profession otherwise than as stock-in-trade, has died or become permanently useless for such purpose, an amount equivalent to the difference between the original cost of the animal to the Assessee and the sum, if any, realized by sale or other disposition of the carcass, as the case may be, of the animal;

(xiii) any sum paid on account of land development tax or rent, local rates or municipal taxes in respect of such premises or part thereof as is used by the Assessee for the purpose of business or profession;

(xiv) any sum paid in the income year to an employee as bonus or commission for services rendered where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission and is reasonable with reference, except in the case of payment of festival bonus, to -

(a) the general practice in similar business or profession,

(b) the profits of the business or profession in that year, and

(c) the pay and other conditions of service of the employee:

[1]*[(Proviso)***]*

(xv) the amount of any debt or part thereof which is established to have become irrecoverable and has actually been written off as such in the books of accounts of the Assessee for the income year if the debt or part thereof has been taken into account in computing the income of the Assessee of that income year or an earlier income year and, in the case of the business of banking or money-lending carried on by the Assessee, represents money lent in the ordinary course of business;

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[1] *Ins. by F.A. 1993 and subsequently omitted by F.A. 2002*

(xvi) where any amount of debt or part thereof which has actually been written off as irrecoverable in the books of accounts of the Assessee in any income year but has not been allowed on the ground that it has not then become irrecoverable, so much of such debt or part thereof as has been established to have become irrecoverable in any subsequent income year shall be allowed as a deduction in that income year;

(xvii) where any such debt or part thereof is written off as irrecoverable in the books of accounts of the Assessee for an income year and the Deputy Commissioner of Taxes is satisfied that such debt or part thereof became irrecoverable in an earlier income year not falling beyond a period of four years immediately preceding the income year in which it was written off, the Deputy Commissioner of Taxes may, notwithstanding anything contained in this Ordinance, allow such debt or part thereof as a deduction for such earlier income year if the Assessee accepts such finding of the Deputy Commissioner of Taxes and re-compute the total income of the Assessee for such earlier income year and make the necessary amendment; and the provisions of section 173 shall, so far as may be, apply thereto the period of four years referred to in sub- section (4) of that section being reckoned from the end of the year in which the assessment relating to the income year in which the debt or part thereof is written off was made;

[1][(xviii)***]

[2][(xviiia) in respect of provision for bad and doubtful debt made by [3][Bangladesh Development Bank Ltd.] for overdue loan, a sum equal to five per cent of such overdue loan or the amount of actual provision for such bad or doubtful debt in the books of the Assessee, whichever is the less:

Provided that the deduction shall be allowed only in respect of the assessment years 1987-88, 1988-89, 1989-90 and 1990-91;

Provided further that if any amount out of the amount so allowed is ultimately recovered, the same shall be deemed to be a profit of the year in which it is recovered;]

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[1] *Omitted by F.A. 1990*
[2] *Ins. by F.A. 1987*
[3] *Subs. by F.A. 2014*

[1][(xviiiaa) in respect of provision for bad and doubtful debt and interest thereon made by a commercial bank including the Bangladesh Krishi Bank [2][, Karmo Shongshtan Bank] and the Rajshahi Krishi Unnayan Bank, a sum equal to [3][one per cent] of the total outstanding loan including interest thereon or the amount of actual provision for such bad or doubtful debt and interest thereon in the books of the Assessee, whichever is less:

Provided that the provisions of this clause shall apply only in respect of such loan as the Bangladesh Bank may, from time to time, classify as bad or doubtful debt;

[4][Provided further that the deduction shall be allowed only in respect of the assessment years 1990-91, 1991-92, 1992-93, 1993-94, 1994-95, [5][1995-96, 1996-97, 1997-98, 1998-99 [6][, 1999-2000, 2000-2001 [7][, 2001-2002, 2002-2003, 2003-2004 [8][, 2004-2005, 2005-2006 and 2006-2007];]]

[9][Provided further that if any amount out of the amount so allowed is ultimately recovered, the same shall be deemed to be a profit of the year in which it is recovered:]

[10][Provided further that no deduction under this clause shall be allowed in respect of-

(a) any amount representing grant allowed by the Government in the form of 15-years Special Treasury Bonds;

(b) any loan advanced to any government organization, body corporate, local authority, autonomous body, or any other loan guaranteed by the Government; and

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[1] Ins by F.A. 1990
[2] Ins. by F.A. 2006
[3] Subs. for "five per cent" by F.A. 1997, re-subs. for "three per cent" by F.A. 2003, re-subs. for "two per cent" by F.A. 2005
[4] Subs. by F.A. 1993
[5] Subs. by F.A. 1997 for "and 1995-96 or till the assessment year the actual provision in respect of which is equal to the bad and doubtful debts as per Bangladesh bank's guideline in this behalf" ins by F.A. 1995
[6] Subs. for "and 1999-2000 by F.A. 1999
[7] Subs. for "and 2001-2002" by F.A. 2002
[8] Subs. for "and 2004-2005" by F.A. 2005
[9] Ins. by F.A. 1995
[10] Ins. by F.A. 1993

(c) any debt representing loans advanced to any director of the bank, his nominees or dependants;]

*[(Proviso)***]*

(xix) any expenditure, not being in the nature of capital expenditure, laid out or expended on scientific research in Bangladesh related to the business carried on by the Assessee;

(xx) any expenditure of a capital nature laid out or expended on scientific research in Bangladesh related to the business carried on by the Assessee:

Provided that where a deduction is allowed for any income year under this clause in respect of expenditure represented wholly or partly by any asset, no deduction shall be allowed under clause (viii) or (ix) for the same income year in respect of that asset;

(xxi) any sum paid to a scientific research institute, association or other body having as its object the undertaking of scientific research, or to a University, College, Technical School or other Institution for the purpose of scientific research or technical training related to the class of business carried on by the Assessee, if such Institute, association or body, or such University, College, Technical School or Institution is, for the time being, approved by the Board for the purpose of this clause.

Explanation.- In this clause and in clauses (xix) and (xx),-

(a) "scientific research" means any activities in the field of natural or applied science for the extension of knowledge;

(b) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research;

(c) reference to scientific research related to a business or class of business includes-

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[1] *Ins. by F.A. 1996 and subsequently omitted by F.A. 1997*

(i) any scientific research which may lend to or facilitate an extension of that business or, as the case may be, all businesses of that class;

(ii) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, business of that class;

(xxii) any expenditure, not being in the nature of capital expenditure, laid out or expended on any educational institution or hospital established for the benefit of the employees of the Assessee, their families and dependents or on the training of industrial workers, if-

(a) no charge is made for services rendered by such institution or hospital or for the training of the workers; and

(b) no deduction or allowance is claimed for such expenditure under any other clause of this section;

(xxiii) any expenditure in the nature of capital expenditure laid out or expended on the construction and maintenance of any educational institution or hospital established by the Assessee for the benefit of his employees, their families and dependents, or on any institute for the training of industrial workers, if-

(a) no charge is made for the services rendered by such institution or hospital or for the training of the workers; and

(b) no deduction or allowance is claimed under any other clause of this section for the same income year in respect of expenditure represented either wholly or partly by any asset;

(xxiv) any expenditure laid out or expended on the training of citizens of Bangladesh in connection with a scheme approved by the Board for purposes of this clause;

(xxv) any expenditure, not being in the nature of capital expenditure or personal expenses, incurred by an Assessee in connection with visits abroad as a member of a trade delegation sponsored by the Government;

(xxvi) any sum paid on account of annual membership subscription to a registered trade organization within the meaning of the Trade Organizations Ordinance, 1961(XLV of 1961), or to a professional institution recognized by the Board in this behalf;

(xxvii) any expenditure, not being in the nature of capital expenditure or personal expenses of the Assessee, laid out or expended wholly and exclusively for the purpose of the business or profession of the Assessee.

(2) Where any premises, building, machinery, plant or furniture is not wholly used for the purposes of business or profession, any allowance or deduction admissible under this section shall be restricted to the fair proportional part of the amount which would be allowable if such premises, building, machinery, plant or furniture was wholly so used.

Explanation.- For the purposes of this section, the expression "plant" includes ships, vehicles, books, scientific apparatus and surgical and other instruments or equipments used for the purpose of business or profession.

30. Deduction not admissible in certain circumstances.- Notwithstanding anything contained in section 29, no deduction on account of allowance from income from business or profession shall be admissible in respect of the following, namely:-

(a) any payment which is an income of the payee classifiable under the head "Salaries" if tax thereon has not been paid in accordance with provisions of Chapter VII;

[1][(aa) any payment made by an Assessee to any person if tax thereon has not been deducted and credited in accordance with the provisions of Chapter VII and মূল্য সংযোজন কর (value-added tax) thereon has not been collected or deducted and credited in accordance with the provisions of মূল্য সংযোজন কর আইন, ১৯৯১ (১৯৯১ সনের ২২ নং আইন;)]

(b) any payment by way of interest, salary, commission or remuneration made by a firm or an association of persons to any partner of the firm or any member of the association, as the case may be;

(c) any payment by way of brokerage or commission made to a person who is not a resident in Bangladesh unless tax has been deducted therefrom under section 56;

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[1] *Ins. by F.A. 1993*

(d) any payment to a provident fund or other fund established for the benefit of the employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable being income falling under the head "Salaries";

[1][(e) so much of the expenditure by an assessee on the provision of perquisites, as defined in clause (45) of section 2, to any employee as exceeds taka [2][three lakh and fifty thousand]:

Provided that the provision of this clause shall not be applicable to an employer where perquisites were paid to an employee in pursuance of any Government decision published in the official Gazette to implement the recommendation of a Wage Board constituted by the Government;]

(f) any expenditure in respect of the following as is in excess of the amount or rate prescribed in this behalf and as is not, in the cases of sales and services liable to excise duty, supported by excise stamp or seal, namely:-

(i) entertainment;

(ii) foreign travels of employees and their dependents for holidaying and recreation ;

(iii) publicity and advertisement; and

(iv) distribution of free samples.

[3][(g) any expenditure exceeding ten percent of the [4][net profit disclosed in the statement of accounts] under the head of Head Office expenses by a company not incorporated in Bangladesh under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সালের ১৮ নং আইন);

(h) any payment by way of royalty , technical services fee, technical know how fee or technical assistance fee exceeding [5][eight percent] of the [6][net profit disclosed in the statement of accounts] [7][;

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[1] *Subs. by F.A. 2005*
[2] *Subs. for "two lakh fifty thousand" by F.A. 2014*
[3] *Ins. by F.A. 2003*
[4] *Subs. by F.A. 2014*
[5] *Subs. for "two and one-half per cent" by F.O. 2007 & "five percent" by F.A. 2009*
[6] *Subs. by F.A. 2014*
[7] *Ins. by F.A. 2006*

(i) any payment by way of salary or remuneration made otherwise than by crossed cheque or bank transfer by a person to any employee having gross monthly salary of taka fifteen thousand or more;

(j) any expenditure by way of incentive bonus exceeding ten percent of the [1][net profit disclosed in the statement of accounts];

(k) any expenditure by way of overseas traveling exceeding one percent of the disclosed turnover] [2][;

(l) any payment by way of commission paid or discount made to its shareholder director by a company;

(m) any payment by a person exceeding taka fifty thousand or more, otherwise than by a crossed cheque or bank transfer excluding-

(i) payment for the purchase of raw materials;

(ii) salary or remuneration made to any employee, without prejudice to an obligation referred to in clause (i) ;

(iii) any payment for government obligation] [3][;

(n) any payment by way of any rent of any property, whether used for commercial or residential purposes, otherwise than by a crossed cheque or bank transfer.]

[4]**[30A. Provision for disallowance. -** Notwithstanding anything contained in sections 28, 29 and 30, the Deputy Commissioner of Taxes shall not make any disallowance or deduction for any year from any claim made by an assessee in the trading account or profit or loss account without specifying reason for such disallowance or deduction.]

31. Capital gains .- Tax shall be payable by an assessee under the head "Capital gains" in respect of any profits and gains arising from the transfer of a capital asset and such profits and gains shall be deemed to be the income of the income year in which the transfer took place [5][.
[6]*[(Proviso)***]]*

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[1] *Subs. by 2014*
[2] *Subs. "semi-colon" for "full-stop" and ins. new clause (l) and (m) by F.A. 2012*
[3] *Ins. new clause(n) by F.A. 2014*
[4] *Ins. by F.A. 2002*
[5] *Subs. full stop for "colon" and omitted proviso by F.A. 2011*
[6] *Omitted. by F.A. 2011*

32. Computation of capital gains.- (1) The income under the head "Capital gains" shall be computed after making the following deduction from the full value of the consideration received or accruing from the transfer of the capital asset or the fair market value thereof, whichever is higher, namely:-

(a) any expenditure incurred solely in connection with the transfer of the capital asset; or

(b) the cost of acquisition of the capital asset and any capital expenditure incurred for any improvements thereto but excluding any expenditure in respect of which any allowance is admissible under any provisions of sections 23,29 and 34.

[1][(1A)***]

(2) For the purpose of this section, "cost of acquisition of the capital asset" means-

(i) where it was acquired by the assessee by purchase, the actual cost of acquisition; and

(ii) where it became the property of the assessee-

[2][(a)***

(b)***]

[3][(c)***]

[4][(cc) under a deed of gift, bequest or will; or

(ccc) under a transfer on a revocable or irrevocable trust; or

(d) on any distribution of capital assets on the liquidation of a company; or

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[1] *Ins. by F.A. 1995 and subsequently omitted by F.A. 1996*
[2] *Omitted by F.O. 1986*
[3] *Subs. by F.A. 1990 and subsequently omitted by F.A. 1993*
[4] *Ins. by F.A. 1990*

(e) on any distribution of capital assets on the dissolution of a firm or other association of persons or the partition of a Hindu undivided family;

the actual cost of acquisition to the previous owner of the capital asset as reduced by the amount of depreciation, if any, allowed to the previous owner; and where the actual cost of acquisition to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner:

Provided that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the cost of acquisition of the capital asset to the assessee shall be its written down value increased or diminished, as the case may be, by any adjustment made under section 19(16) or (17) or section 27 (1) (j) or section 29(1) (xi):

[1]*[Provided further that where the capital asset became the property of the assessee by succession, inheritance or devolution, the actual cost of acquisition of the capital asset to the assessee shall be the fair market value of the property prevailing at the time the assessee became the owner of such property.]*

(3) Where in the opinion of the Deputy Commissioner of Taxes the fair market value of a capital asset transferred by an assessee as on the date of transfer exceeds the full value of the consideration declared by the assessee by an amount of not less than fifteen per cent of the value so declared, the fair market value of the capital asset shall be determined with the previous approval of the Inspecting Joint Commissioner.

(4) Where in the opinion of the Deputy Commissioner of Taxes the fair market value of a capital asset transferred by an assessee as on the date of the transfer exceeds the declared value thereof by more than twenty five per cent of such declared value, the Government may offer to buy the said asset in such manner as may be prescribed.

(5) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of a capital asset which immediately before the date on which the transfer took place was being

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[1] *Ins. by F.O. 1986, subsequently omitted by F.A. 1990 and restored by F.A. 1993*

used by the assessee for the purposes of his business or profession and the assessee has, within a period of one year before or after that date, purchased a new capital asset for the [1][***] purposes of his business or profession, then, instead of the capital gain being charged to tax as income of the income year in which the transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this sub-section, that is to say-

(a) if the amount of the capital gains is greater than the cost of acquisition of the new asset,-

(i) the difference between the amount of the capital gain and the cost of acquisition of the new asset shall be charged under section 31 as income of the income year, and

(ii) for the purposes of computing in respect of the new asset any allowance under the Third Schedule or the amount of any capital gain arising from its transfer, the cost of acquisition or the written down value, as the case may be, shall be nil, or

(b) if the amount of the capital gain is equal to or less than the cost of acquisition of the new asset,-

(i) the capital gain shall not be charged under section 31, and

(ii) for the purposes of computing in respect of the new asset any allowance under the Third Schedule or any income under section 19(16) or the amount of any capital gain arising from its transfer, the cost of acquisition or the written down value, as the case may be, shall be reduced by the amount of the capital gain:

Provided that where in respect of the purchase of a new capital asset consisting of plant or machinery, the assessee satisfies the Deputy Commissioner of Taxes that despite the exercise of due diligence it has not been possible to make the purchase within the period specified in this sub-section, the Deputy Commissioner of Taxes may, with the prior approval of the Inspecting Joint Commissioner, extend the said period to such date as he considers reasonable.

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[1] *Omitted by F.A. 1995*

[1][(6)***]

[2][(7) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of a capital asset being Government securities and [3][***] [4][***] then no tax shall be charged under this section.

[5][(8)***]

[6][(9)***]

(10) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of capital asset being buildings or lands to a new company registered under [7][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)], for setting up of an industry, and if the whole amount of capital gain is invested in the equity of the said company, then the capital gain shall not be charged to tax as income of the year in which the transfer took place.

(11) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of capital asset of a firm to a new company registered under [8][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)], and if the whole amount of the capital gain is invested in the equity of the said company by the partners of the said firm, then the capital gain shall not be charged to tax as income of the year in which the transfer took place.]

[9][(11A)***]

[10][(12) Notwithstanding anything contained in sub-sections [11][(5), (7), (10), and (11)], no exemption shall be allowed to any person on so much of profits and gains arising out of the transfer of a capital asset as is

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[1] *Omitted by F.A. 2000*
[2] *Subs. by F.A. 1995*
[3] *Omitted by F.A. 2010*
[4] *Omitted by F.A. 1996*
[5] *Omitted by F.A. 2000*
[6] *Ins. Sub-section (9), (10) and (11) by F.O.1985*
[7] *Subs. for "the Companies Act. 1913 (VII of 1913)" by F.A. 1995*
[8] *Subs. for "the Companies Act. 1913 (VII of 1913)" by F.A. 1995*
[9] *Omitted by F.O. 2007*
[10] *Ins. by F.A. 1994*
[11] *Subs. for "sub-sections (5), (6), (7), (8), (9),(10) and (11)" by F.A. 2000*

attributable to the cost of acquisition of such asset in respect of which any investment allowance referred to in paragraph 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 of PART B of the SIXTH SCHEDULE to this Ordinance was at any time allowed.]

33. Income from other sources.- The following income of an assessee shall be classified and computed under the head "Income from other sources", namely:-

(a) dividend and interest;

(b) royalties and fees for technical services;

(c) income from letting of machinery, plants or furniture belonging to the assessee, and also of buildings belonging to him if the letting of buildings is inseparable from the letting of the machinery, plant or furniture;

[1][(d) any income to which section 19 (1), (2), (3), (4), (5), (8), (9), (10), (11), (12), (13) [2][, (21), [3][(21A), (21B), (24), (26), (27) or (28) applies];]]

(e) any other income of any kind or from any source which is not classifiable under any of the other heads specified in section 20.

34. Deductions from income from other sources.- (1) The amount of interest paid in respect of money borrowed for the purpose of acquisition of shares of a company.

(2) Any expenditure, not being in the nature of capital expenditure or personal expenses of the assessee, incurred solely for the purpose of making or earning the relevant income.

(3) Where the income is derived from letting on hire of machinery, plant or furniture belonging to the assessee and also of building belonging to him if the letting of the building is inseparable from the letting of such

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[1] *Subs. by F.A. 1994*
[2] *Subs. for "or 21" by F.A. 2002*
[3] *Subs. for "*(21A) or *(24) applies" by F.A. 2014*

machinery, plant or furniture, the same allowances as are admissible under section 29(1) (vi), (vii) and (xi) to an assessee in respect of income under the head "Income from business or profession" subject to the same conditions and limitations as if the income from such letting on hire were income from business or profession:

Provided that the provisions of section 19(16) shall also be applicable for the determination of any profits where the sale proceeds of such machinery, plant, furniture or building exceeds the written down value thereof.

(4) Notwithstanding anything contained in this section, no allowance shall be made on account of-

(a) any interest chargeable under this Ordinance which is payable outside Bangladesh on which tax has not been paid and from which tax has not been deducted at source under section 56; or

(b) any payment which is chargeable under the head "Salaries" if tax has not been paid thereon or deducted there from under section 50.

35. Method of accounting.- (1) All income classifiable under the head [1]["Agricultural income"], "Income from business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee.

[2][(2) Notwithstanding anything contained in sub-section (1), the Board may, in case of any business or profession, or class of business or profession, or any other source of income, or any class of persons or class of income, by a general or special order, direct that the accounts and other documents shall be maintained in such manner and form, and the mode of payments of commercial transactions recorded in such manner and form, as may be prescribed or as may be specified in such direction; and thereupon the income of the assessee shall be computed on the basis of the accounts maintained, payments made and transactions recorded accordingly.]

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[1] *Ins. by F.A. 1991*
[2] *Subs. by F.A. 2014*

(3) Without prejudice to the preceding sub-sections, every public or private company as defined in [1][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)], [2][***] shall, with the return of income required to be filed under this Ordinance for any income year, furnish a copy of the trading account, profit and loss account and the balance sheet in respect of that income year [3][certified by a chartered accountant to the effect that the accounts are maintained according to the Bangladesh Accounting Standard (BAS) and reported in accordance with the Bangladesh Financial Reporting Standard (BFRS).]

(4) Where-

(a) no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Deputy Commissioner of Taxes, the income of the assessee cannot be properly deduced therefrom; or

(b) in any case to which sub-section (2) applies, the assessee fails to maintain accounts, make payments or record transactions in the manner directed under that sub- section ; or

(c) a company [4][***] has not complied with the requirements of sub-section (3); the income of the assessee shall be computed on such basis and in such manner as the Deputy Commissioner of Taxes may think fit.

36. Allocation of income from royalties, literary works, etc.- Where the time taken by the author of a literary or artistic work in the making thereof exceeds twelve months, the amount received or receivable by him during any income year in lump sum on account of royalties or copyright fees in respect of that work shall, if he so claims, be deemed to be the income of-

(a) the income year in which it is received and the immediately preceding income year if the time taken in making such work exceeds twelve months but does not exceed twenty-four months ; and

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[1] *Subs. for "the Companies Act. 1913 (VII of 1913)" by F.A. 1995*
[2] *Omitted by F.A. 1996*
[3] *Subs. by F.A. 2014*
[4] *Omitted by F.A. 1998*

(b) the income year in which it is received and the two immediately preceding income years if the time taken in making such work exceeds twenty-four months, and shall be allocated in equal proportions to each such income year and the income of the assessee in respect of an income year shall be computed accordingly.

Explanation.- For the purposes of this section, the expression "author" includes a joint author and the expression "lump sum" in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable.

37. Set off of losses.- Where, in respect of any assessment year, the net result of computation of income under any head is a loss, the assessee shall, subject to the other provisions of this Ordinance, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head:

[1]*[Provided that any loss in respect of any speculation business or any loss under the head "Capital gains" or any loss from any other source, income of which is exempted from tax shall not be so set off, but shall, excluding any loss from any other source, income of which is exempted from tax, in accordance with the provisions of this Ordinance, be set off, or be carried forward to succeeding assessment year or years for set off, against any income in respect of speculation business or any income under the head "Capital gains* ":]

Provided further that for the purposes of this section the Deputy Commissioner of Taxes shall, in computing any loss, deduct any amount received in cash as subsidy from the Government.

[2]*[Provided further that that any loss in respect of any income from business or profession shall not be so set off, or be carried forward to succeeding assessment year or years for set off, against any income from house property.]*

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[1] *Subs. by F.A. 2005*
[2] *Ins. by F,A. 2007*

38. Carry forward of business losses.- Where, for any assessment year, the net result of the computation of income under the head "Income from business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss has not been wholly set off under section 37, so much of the loss as has not been so set off, the whole of the loss, where the assessee has no income under any other head or has income only under the head "Capital gains", shall be carried forward to the next following assessment year, and-

(a) it shall be set off against the income, if any, from the business or profession for which the loss was originally computed if such business or profession is continued to be carried on by him in the income year; and

(b) if the loss cannot be wholly so set off, the amount of the loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

39. Carry forward of loss in speculation business.- (1) Where, for any assessment year, the result of computation of income in respect of any speculation business carried on by the assessee is a loss, it shall be set off only against the income, if any, from any other speculation business carried on by him and assessable for that assessment year.

(2) Where, for any assessment year, any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as has not been so set off, or the whole loss where the assessee has no income from any other speculation business, shall, subject to the provisions of this Ordinance, be carried forward to the next following assessment year, and-

(a) it shall be set off against the income, if any, from any speculation business carried on by him and assessable for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

40. Carry forward of loss under the head "Capital gains".- (1) Where, in respect of any assessment year, the net result of computation of income from any source under the head "Capital gains" is a loss, it shall be set off only against income from any other source falling under that head and assessable for that year.

(2) Where, for any assessment year, any loss computed under the head "Capital gains" has not been wholly set off under sub-section (1), so much of the loss as has not been so set off, or the whole loss where the assessee has no income from any other source falling under that head, shall, subject to the provisions of this Ordinance, be carried forward to the next following assessment year, and-

(a) it shall be set off against income, if any, of the assessee under that head and assessable for that year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

(3) Where, in respect of any assessment year, the loss computed under the head "Capital gains" does not exceed five thousand taka it shall not be carried forward and where it exceeds five thousand taka only so much of such loss shall be carried forward as exceeds five thousand taka.

41. Carry forward of loss under the head "Agricultural income".- Where, for any assessment year, the net result of the computation of income under the head "Agricultural income" is a loss to the assessee, and such loss has not been wholly set off under section 37, so much of the loss as has not been so set off, or the whole of the loss, where the assessee has no income under any other head or has income only under the head "Capital gains", shall be carried forward to the next following assessment year, and-

(a) it shall be set off against agricultural income, if any, of the assessee assessable for that assessment year; and

(b) if the loss cannot be wholly so set off the amount not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

42. Conditions and limitations of carry forward of loss, etc.- (1) The provisions of sections 37. 38, 39, 40 and 41 shall have effect subject to the conditions and limitations set out in this section.

[1][(2)***]

(3) In the case of [2][a firm],-

(a) Where the assessee is the firm, the loss sustained by it under any head of income shall be set off under section 37 only against the income of the firm under any other head and not against the income of any of the partners of the firm; and

(b) where the assessee is a partner of the firm, he shall not be entitled to have any loss sustained by the firm carried forward and set off against his own income.

(4) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, no person, other than the person incurring the loss, shall be entitled to have the loss in such business or profession set off against his income under any other head.

(5) In the case of a firm in the constitution of which a change has occurred,-

(a) the firm shall not be entitled to set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, of the income year in the firm; and

(b) a partner of the firm shall not be entitled to the benefit of any portion of the said loss as is not apportionable to him.

(6) Where, in making an assessment for any year, full effect cannot be given to the allowances referred to in section 29(1) (viii) owing to there being no profits or gains chargeable for that year or such profits or gains

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[1] *Omitted by F.A. 1995*
[2] *Subs for "an unregistered firm" by F.A. 1995*

being less than the allowance then, subject to the provisions of sub-section (7), the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and be deemed to be part of that allowance or if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years.

(7) Where, under sub-section (6), depreciation allowance is also to be carried forward, effect shall first be given to the provisions of sections 38 and 39(2).

43. Computation of total income.- (1) For the purpose of charge of tax, the total income of an assessee shall be computed in the manner provided in this Ordinance.

(2) In computing the total income of an assessee, there shall be included any exemption or allowance specified in part B of the Sixth Schedule and any income deemed to be the income of the assessee under section 19, subject to the limits, conditions and qualifications laid down therein.

(3) Where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the income year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income year [1][***] and such share shall be included in his total income:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 42.

(4) In computing the total income of any individual for the purpose of assessment, there shall be included -

(a) so much of the income of the spouse or minor child of such individual as arises, directly or indirectly, -

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[1] *Omitted by F.A. 1995*

(i) from the membership of the spouse in a firm of which such individual is a partner;

(ii) from the admission of the minor child to the benefits of partnership in a firm of which such individual is a partner;

(iii) from assets transferred directly or indirectly to the spouse otherwise than [1][by way of gift or] for adequate consideration or in connection with an agreement to live apart; or

(iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than [1][by way of gift or] for adequate consideration; and

(b) so much of the income of any person or association of persons as arises from assets transferred, otherwise than [1][by way of gift or] for adequate consideration, to such person or association of persons by such individual for the benefit of the spouse or minor child or both.

(5) All income arising to any person by virtue of a settlement or disposition whether revocable or not from assets remaining the property of the [2][settlor] or disponer, shall be deemed to be income of the [2][settlor] or disponer, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor and shall be included in the total income of such person.

(6) For the purpose of sub-section (5),-

(a) a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the [2][settlor], disponer or transferor, of in any way gives the settlor, disponer or transferor a right to resume power directly over the income or assets;

(b) the expression “settlement or disposition” shall include any disposition, trust, covenant, agreement or arrangement, and the expression [2][settlor] or disponer, in relation to a settlement or disposition, shall include any person by whom the settlement or disposition was made.

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[1] *Omitted the words "by way of gift or" by F.O. 1985, subsequently re-ins by F.A. 1990*

[2] *Subs. for "settler" by F.A. 1989 and shall be deemed to have been always so substituted.*

CHAPTER VI
EXEMPTIONS AND ALLOWANCES

44. Exemption.- (1) Notwithstanding anything contained in this Ordinance, any income or class of income or the income of any person or class of persons specified in Part A of the Sixth Schedule shall be exempt from the tax payable under this Ordinance, subject to the limits, conditions and qualifications laid down therein and shall be excluded from the computation of total income under this Ordinance.

[1][(2) Subject to the provisions of this Ordinance and the limits, conditions and qualifications laid down in Part B of the Sixth Schedule,-

(a) tax shall not be payable by an assessee in respect of any income or any sum specified in paragraphs 15 and 16 of the said Part B; and

(b) an assessee shall be entitled to a credit from the amount of tax payable on his total income of an amount equal to [2][fifteen percent] of the sums specified [3][in all paragraphs excluding paragraphs 15 and 16 of the said Part B.]

[4][(3) The aggregate of the allowances admissible under [5][all paragraphs excluding paragraphs 15 and 16 of Part B] of the Sixth Schedule shall not exceed-

[6][(a) One crore and fifty lakh taka:]

Provided that the amount admissible under clause (a) shall not, under any circumstances, exceed [7][thirty per cent] of the total income of the assessee.

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[1] Subs. by F.A. 1992
[2] Subs. for "ten percent" by F.A. 2013
[3] Subs. for "in paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 11A, 11B, 13, 17 and 21 of the said Part B" by F.A. 2005
[4] Subs. by F.A. 2000
[5] Subs. for " paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 11A, 11B, 13, 17 and 21 of the said Part B" by F.A. 2005
[6] Subs. for "ten million" by F.A. 2013
[7] Subs. for "twenty percent" by F.A. 2013

[1][(b)***]

(4) The Government may, by notification in the official Gazette,-

(a) make such amendments by way of addition, omission, alteration or qualification in the Sixth Schedule as it may deem fit; and

(b) make any exemption, reduction in rate or other modifications in respect of tax in favour of any class of income or in regard to the whole or any part of the income of any class of persons.

[2][*(Proviso)***]*

45. Exemption of income of an industrial undertaking.- (1) Subject to the provisions of this Ordinance, the income, profits and gains of an industrial undertaking set up in Bangladesh between the first day of July, 1974, and the thirtieth day of June, 1985 (both days inclusive), shall be exempt from tax payable under this Ordinance for the period specified below-

(a) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Special Economic Zone", for a period of twelve years beginning with the month of commencement of commercial production of the undertaking;

(b) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify in this behalf, for a period of nine years beginning with the month of commencement of commercial production of the undertaking ; and

(c) in other areas, for a period of five years beginning with the month of such commencement.

Explanation.- For the purposes of this section, "industrial undertaking" includes expansion of an existing undertaking if such expansion constitute-

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[1] *Omitted by F.A. 2006*
[2] *Subs. for "colon" and omitted the proviso by F.A. 2005*

(a) an identifiable unit for production of similar or other goods or class of goods; or

(b) a similar unit carrying on an identifiable industrial process, but does not include an undertaking which is formed by splitting up or reconstruction of an existing business or by the transfer of machinery or plant of an existing business in Bangladesh to a new business.

(2) The exemption under sub-section (1) shall apply to an industrial undertaking (hereinafter referred to as the "said undertaking") which fulfills the following conditions, namely:-

(a) that the said undertaking is owned and managed by-

(i) a body corporate established by, or in pursuance of, an Act of Parliament with its head office in Bangladesh; or

(ii) a company registered under the Companies Act, 1913 (VII of 1913), with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production;

(b) that the said undertaking belongs to such class of industry as the Board may, by notification in the official Gazette, specify for the purposes of this section;

(c) that a part of the income exempted under this section is reinvested in the said undertaking or is invested in the purchase of bond issued by the Government and such reinvestment or investment is not-

(i) less than fifteen per cent of such income, if it is an undertaking set up in the areas referred to in sub-section (1) (a) and (b); and

(ii) less than thirty per cent in other areas;

(d) that the said undertaking is approved and, during the relevant income year, stands approved by the Board for the purposes of this section;

(e) that the application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within one hundred and twenty days from the date of commencement of commercial production:

Provided that the Board may admit an application after the expiry of the said period of one hundred and twenty days if it is satisfied that there was sufficient cause for not making the application within the said period.

[1][(2A) Subject to the provisions of this Ordinance, the income, profits and gains of an industrial undertaking set up in Bangladesh between the first day of July, 1985, and the thirtieth day of June, [2][1995] (both days inclusive), shall be exempt from the tax payable under this Ordinance for the period specified below-

(a) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Special Economic Zone", for a period of twelve years beginning with the month of commencement of commercial production of the undertaking;

(b) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Least Developed Areas", for a period of nine years beginning with the month of commencement of commercial production of the undertaking;

(c) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Less Developed Areas", for a period of [3][seven] years beginning with the month of commencement of commercial production of the undertaking; and

(d) if the undertaking is set up in the city of Dhaka, Chittagong or Khulna or the municipality of Narayanganj, or within ten miles from the outer limits thereof, for a period of [4][five] years beginning with the month of commencement of commercial production of the undertaking.

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[1] *Ins. Sub-section (2A) and (2B) by F.O. 1985*
[2] *Subs. "2000" for "1990" by F.A. 1989 and subsequently subs. "1995" for "2000" by F.A. 1991*
[3] *Subs. for "six" by I.T. (amend.) Ord. 1986, dt. 0 8-07-1986*
[4] *Subs. for "four" by I.T. (amend.) Ord. 1986, dt. 0 8-07-1986*

(2B) The exemption under sub-section (2A) shall apply to an industrial undertaking (hereinafter referred to as the "said undertaking") which fulfills the following conditions, namely:-

(a) that the said undertaking is owned and managed by-

(i) a body corporate established by, or in pursuance of, an Act of Parliament with its head office in Bangladesh; or

(ii) a company registered under [1][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)], with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production;

(b) that the said undertaking belongs to such class of industry as the Board may, by notification in the official Gazette, specify for the purpose of this sub-section;

[2][(c)***]

[3][(cc) that a part of the income exempted under sub-section (2A) is invested, [4][during the period, or within one year from the end of the period] to which the exemption under that sub-section relates, in the said undertaking or in any new industrial undertaking or in any productive assets being stocks and shares of a public company or bonds or securities issued by the Government and such investment is not less than [5][thirty per cent.] of such income, failing which the income so exempted, shall, notwithstanding the provisions of this Ordinance, be subject to tax in the assessment year for which the exemption was allowed:]

[6][Provided that the quantum of investment referred to in this clause shall be reduced by the amount of dividend, if any, declared by the company enjoying tax exemption under this section;]

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[1] Subs. for " the Companies Act. 1913 (VII of 1913)" by F.A. 1995
[2] Subs. by F.A. 1991, 1992 and subsequently omitted by F.A. 1994
[3] Subs. by F.A. 1992
[4] Subs. for "within two years form the end of the period" by 1999
[5] Subs. for " twenty-five percent. " by F.A. 1994
[6] Ins. by. F.A. 1999

(d) that the said undertaking is approved and, during the relevant income year, stands approved by the Board for the purposes of this section;

(e) that the application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within one hundred and eighty days from the date of commencement of commercial production:

Provided that the Board may admit an application after the expiry of the said period of [1][one hundred and eighty days] if it is satisfied that there was sufficient cause for not making the application within the said period.]

[2][(2C) The Board shall give its decision on an application made under clause (e) of sub-section (2B) within [3][three months] from the date of receipt of the application by the Board, failing which the undertaking shall be deemed to have been approved by the Board for the purposes of this section.]

(3) The income, profits and gains of the said undertaking to which this section applies, shall be computed in accordance with the provisions of sections 28 and 29:

[4][Provided that in respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third Schedule shall be allowed.]

(4) The profits and gains of the said undertaking shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such undertaking, it shall be carried forward and set off against the profits and gains of the said undertaking for the following year, and where it cannot be wholly set off, the amount of the loss not so set off, shall be carried forward for the next year and so on, but no loss shall be carried beyond the period of exemption allowed under this section.

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[1] *Subs. for "one hundred and twenty days" by F.O. 1986*
[2] *Ins by F.A. 1990*
[3] *Subs. for "six months" by F.A. 1992*
[4] *Subs. by F.A. 1999*

(5) Nothing contained in this section shall be so construed as to exempt the following:-

(a) any dividend paid, credited or distributed or deemed to have been paid, credited or distributed by a company to its share-holders out of the profits and gains exempt from tax under this section ; and

(b) any income of the said undertaking classifiable as "Capital gains" chargeable under the provisions of section 31.

(6) Where any exemption has been allowed under this section and it is subsequently discovered by the Deputy Commissioner of Taxes that any one or more of the conditions specified in this section were not fulfilled, the exemption originally allowed shall be deemed to have been wrongly allowed, and the Deputy Commissioner of Taxes may, notwithstanding anything contained in this Ordinance, re-compute the total income of, and the tax payable by, the assessee for the relevant income year and the provisions of section 93 or 94 shall, so far as may be, apply thereto, the period of two years specified in section 94 being reckoned from the end of the assessment year relevant to the income year in which the infringement was discovered.

(7) An industrial undertaking approved under this section may, not later than six months from the date of approval, apply in writing to the Board for the cancellation of such approval, and the Board may pass such orders thereon as it may deem fit.

[1][(8) Notwithstanding anything contained in this section, the Board may, in the public interest, cancel or suspend fully or partially any exemption allowed under this section.]

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[1] *Ins. by F.A. 1992*

46. Exemption of income of a tourist industry.- (1) Subject to the provisions of this Ordinance, the income, profits and gains of a tourist industry set up in Bangladesh between the first day of January, 1976, and the thirtieth day of June, 1985 (both days inclusive), shall be exempt from the tax payable under this Ordinance, for the period specified below-

(a) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Special Economic Zone", for a period of twelve years beginning with the commencement of its commercial service;

(b) if the industry is set up in the cities of Dhaka, Chittagong, Khulna and Rajshahi and the areas within fifteen miles from the outer municipal limits of those cities, for a period of five years beginning with the month of commencement of its commercial service ; and

(c) in other areas, for a period of seven years beginning with the month of such commencement.

***Explanation*.-** For the purposes of this section, the expression "tourist industry" means a business, industry or undertaking which caters for the tourists including setting up, establishment or running of hotels, motels, [1][hunting lodges, amusement and theme park, holiday home, tourist resort, family fun and games, energy park] and private picnic spots of such standard as may be prescribed by the Board.

(2) The exemption under sub-section (1) shall apply to a tourist industry (hereinafter referred to as the "said industry"), which fulfils the following conditions, namely:-

(a) that the said industry is owned and managed by a Bangladeshi company having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of its commercial service;

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[1] *Subs. for "hunting lodge" by F.A. 2001*

(b) that the said industry shall have such service facilities as the Board may, by notification in the official Gazette, specify in this behalf;

(c) that a part of the income, profits and gains derived from the said industry exempted under sub-section (1) is reinvested in it or is invested in the purchase of bond issued by the Government, and such reinvestment or investment is not-

(i) less than thirty per cent., if it is an industry set up in the areas referred to in sub- section (1) (b); and

(ii) less than fifteen per cent., in other areas ;

(d) that an application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within one hundred and twenty days of the date of commencement of commercial service;

(e) that the said industry is approved and, during the relevant income year, stands approved by the Board for the purposes of this section.

[1][(2A) Subject to the provisions of this Ordinance, the income, profits and gains of a tourist industry set up in Bangladesh between the first day of July, 1985, and the 30th day of June, [2][1995] (both days inclusive) shall be exempt from the tax payable under this Ordinance, for the period specified below-

(a) if the industry is set up in such areas as the Board may, by notification in the official gazette, specify to be "Special Economic Zone", for a period of twelve years beginning with the month of commencement of its commercial service;

(b) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Least Developed Areas", for a period of nine years beginning with the month of commencement of its commercial service;

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[1] *Subs-sec. (2A) & (2B) ins. by F.O. 1985*

[2] *Subs. "2000" for "1999" by F.A. 1989 and subsequently "1995: for "2000" by F.A. 1991*

(c) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be "Less Developed Areas", for a period of [1][seven years] beginning with the month of commencement of its commercial service; and

(d) if the industry is set up in the city of Dhaka, Chittagong or Khulna or the municipality of Rajshahi, or within 15 miles from the outer limits thereof, for a period of [2][five years] beginning with the month of commencement of its commercial service.

(2B) The exemption under sub-section (2A) shall apply to a tourist industry (hereinafter referred to as the "said industry"), which fulfils the following conditions, namely:-

(a) that the said industry is owned and managed by a Bangladeshi company having subscribed and paid up capital of not less than one lakh taka on the date of commencement of its commercial service;

(b) that the said industry shall have such service facilities as the Board may, by notification in the official Gazette, specify in this behalf;

[3][(c)***]

[4][(cc) that a part of the income exempted under sub-section (2A) is invested, [5][during the period, or within one year from the end of the period] to which the exemption under that sub-section relates, in the said undertaking or in any new industrial undertaking or in any productive assets being stocks and shares of a public company or bonds or securities issued by the Government and such investment is not less than [6][thirty per cent.] of such income, failing which the income so exempted shall, notwithstanding the provisions of this Ordinance, be subject to tax in the assessment year for which the exemption was allowed:]

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[1] *Subs. for "six years" by I.T. (amend.) Ord. 1986, dated 8-7-86 (w.e.f. 1-7-1985)*

[2] *Subs. for "four years" by I.T. (amend.) Ord. 1986, dated 8-7-86 (w.e.f. 1-7-1985)*

[3] *Subs. by F.A. 1992 subsequently omitted by F.A. 1994*

[4] *Subs. by F.A. 1992*

[5] *Subs. for "within two years" form the end of the period by F.A. 1999*

[6] *Subs. for "twenty five percent." by F.A. 1994 which was subs. for twenty per cent by F.,A. 1993.*

[1]*[Provided that the quantum of investment referred to in this clause shall be reduced by the amount of dividend, if any, declared by the company enjoying tax exemption under this section;]*

(d) that an application in the prescribed form for approval for the purposes of this section as verified in the prescribed manner, is made to the Board within [2][one hundred and eighty days] of the date of commencement of commercial service;

(e) that the said industry is approved and, during the relevant income year, stands approved by the Board for the purposes of this section.

[3][(2C) The Board shall give its decision on an application made under clause (d) of sub-section (2B) within [4][three months] from the date of receipt of the application by the Board, failing which the industry shall be deemed to have been approved by the Board for the purposes of this section.

(3) The profits and gains of the said industry to which this section applies shall be computed in accordance with the provisions of sections 28 and 29:

Provided that in respect of depreciation, only the allowance for normal depreciation specified in paragraph 3 of the Third Schedule shall be allowed.

(4) The profits and gains of the said industry shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such industry, it shall be carried forward and set off against the profits and gains of the said industry for the following year and where it cannot be wholly set off, the amount of the loss not so set off, shall be carried forward for the next year and so on, but no loss shall be carried forward beyond the period of exemption allowed under this section.

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[1] *Ins. by F.A. 1999*
[2] *Subs. for "one hundred and twenty days" by F.O. 1986*
[3] *Ins. by F.A. 1990*
[4] *Subs. by F.A. 1992*

(5) Nothing contained in this section shall be so construed as to exempt the following:-

(a) any dividend paid, credited or distributed or deemed to have been paid, credited or distributed by a company to its shareholders out of the profits and gains exempt from tax under this section; and

(b) any income of the said industry classifiable as "Capital gains" chargeable under the provisions of section 31.

(6) Where any exemption has been allowed under this section and it is subsequently discovered by the Deputy Commissioner of Taxes that any one or more of the conditions specified in this section were not fulfilled, the exemption originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner of Taxes may, notwithstanding anything contained in this Ordinance, re-compute the total income of, and the tax payable by, the assessee for the relevant income year, and the provisions of section 93 or 94 shall, so far as may be, apply thereto, the period of two years specified in section 94 being reckoned from the end of the assessment year relevant to the income year in which the infringement was discovered.

(7) A tourist industry approved under this section may, not later than six months from the date of approval, apply in writing to the Board for the cancellation of such approval, and the Board may pass such orders thereon as it may deem fit.

[1][(8) Notwithstanding anything contained in this section, the Board may, in the public interest, cancel or suspend fully or partially the exemption allowed under this section.]

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[1] *Ins. by F.A. 1992*

[1]**[46A. Exemption from tax of newly established industrial undertakings, etc. in certain cases.-** (1) Subject to the provisions of this Ordinance, [2][profits and gains under section 28 from] an industrial undertaking, tourist industry or physical infrastructure facility (hereinafter referred to as the said undertaking) set-up in Bangladesh between the first day of July, 1995 and the thirtieth day of [3][June, 2008] (both days inclusive) shall be exempt from the tax payable under this Ordinance for the period specified below-

(a) if the said undertaking is set-up in [4][Dhaka and Chittagong divisions], excluding the hill districts of Rangamati, Bandarban and Khagrachari, for a period of [5][four] years beginning with the month of commencement of commercial production or operation of the said undertaking;

(b) if the said undertaking is set-up in [6][Rajshahi, Khulna, Sylhet and Barisal divisions] and the hill districts of Rangamati, Bandarban and Khagrachari, for a period of [7][six] years beginning with the month of commencement of commercial production or operation of the said undertaking.

[8][(**Explanation**.)***]

[9][(1A) industrial undertaking, tourist industry, or physical infrastructure facility does not include expansion of an existing undertaking for the purpose of this section,-

(i) "industrial undertaking" means an industry engaged in the production of textile, textile machinery, high value garments, pharmaceuticals, melamine, plastic products, ceramics, sanitary ware, steel from iron ore, fertilizer, insecticide & pesticide, computer hardware, petro-chemicals, basic raw materials of drugs,

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[1] *Ins. by F.A. 1995*
[2] *Subs. for "profits and gains of " by F.A. 2006*
[3] *Subs. for "June, 2000" by F.A. 2000 again subs. for "June, 2005" by F.A. 2005*
[4] *Subs. for "Dhaka, Chittagong and Sylhet divisions" by F.A. 2000*
[5] *Subs. for "five" by F.A. 2005*
[6] *Subs. for "Rajshahi, Khulna and Barisal divisions" by F.A. 2000*
[7] *Subs. for "seven" by F.A. 2005*
[8] *Subs. by F.A. 2002 subsequently omitted by F.A. 2005*
[9] *Ins. by F.A. 2005*

chemicals, pharmaceuticals, agricultural machine, ship building, boilers, compressors and any other category of industrial undertaking as the Government may by notification in the official Gazette specify.

Explanation: 'high value garments' mean overcoats, jackets and suits.

(ii) "physical infrastructure facility" means sea or river port, container terminals, internal container depot, container freight station, LNG terminal and transmission line, CNG terminal and transmission line, gas pipe line, flyover, large water treatment plant & supply through pipe line, waste treatment plant, [1][solar energy plant], export processing zone and any other category of physical infrastructure facility as the Government may by notification in the official Gazette specify;

(iii) "tourist industry" means residential hotel having facility of three star or more and any other category of tourist industry facility as the Government may by notification in the official Gazette specify.]

(2) The exemption under sub-section (1) shall apply to the said undertaking if it fulfils the following conditions, namely:-

(a) that the said undertaking is owned and managed by-

(i) a body corporate established by or under an Act of Parliament with its head office in Bangladesh; or

(ii) a company as defined in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production or operation;

[2][(b)***]

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[1] *Ins. by F.O. 2007*
[2] *Omitted by. F.A. 2005*

[1][(c) that thirty per cent of the income exempted under sub-section (1) is invested in the said undertaking or in any new industrial undertakings during the period of exemption or within one year from the end of the period to which the exemption under that sub-section relates and in addition to that another ten per cent of the income exempted under sub-section (1) is invested in each year before the expiry of three months from the end of the income year in the purchase of shares of a company listed with any stock exchange, failing which the income so exempted shall, notwithstanding the provisions of this Ordinance, be subject to tax in the assessment year for which the exemption was allowed:

Provided that the quantum of investment referred to in this clause shall be reduced by the amount of dividend, if any, declared by the company enjoying tax exemption under this section.

[2]*[Provided further that, the provision for purchase of shares of a company listed with any stock exchange referred to in this clause shall not be applicable to ready made garments industry, if it re-invests forty per cent of the income exempted under sub-section (1) in the said undertaking or in any new industrial undertaking during the period of exemption or within one year from the end of the period to which the exemption under that sub-section relates.]*

(d) that the said undertaking is not formed by splitting up or by reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in business which was being carried on in Bangladesh at any time before the commencement of the new business;

(e) that the said undertaking is approved, and during the relevant income year, stands approved by the Board for the purposes of this section;

(f) that the application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board [3][within six months from the end of the month] of commencement of commercial production or operation.

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[1] *Subs. by F.A. 2005*
[2] *Ins. by F.A. 2009*
[3] *Subs. for "within one hundred eighty days form the date" by F.A. 2000*

[1][(2A) Notwithstanding anything contained in this section-

(a) where a said undertaking enjoying exemption of tax under this section is engaged in any commercial transaction with another undertaking or company having one or more common sponsor directors, and

(b) during the course of making an assessment of the said undertaking if the Deputy Commissioner of Taxes is satisfied that the said undertaking has purchased or sold goods at higher or lower price in comparison to the market price with intent to reduce the income of another undertaking or company-

the exemption of tax that said undertaking shall be deemed to have been withdrawn for that assessment year in which such transaction is made.]

(3) The Board shall give its decision on an application made under clause (f) of sub-section (2) within [2][forty-five days] from the date of receipt of the application by the Board, failing which the undertaking shall be deemed to have been approved by the Board for the purposes of this section[3][:

Provided that the Board shall not reject any application made under this section unless the applicant is given a reasonable opportunity of being heard.]

(4) The Board may, on an application of any person aggrieved by any decision or order passed under sub-section (3), if the application is made within four months of the receipt of such decision or order, review the previous decision or order and pass such order in relation thereto as it thinks fit.

(5) The profits and gains of the undertaking to which this section applies shall be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession":

[4]*[Provided that in respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third Schedule shall be allowed.]*

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[1] *Subs. by F.A. 2003*
[2] *Subs. for "three months" by F.A. 2002 again subs. for " thirty days" by F.A. 2003*
[3] *Ins. by F.A. 2002*
[4] *Subs. by F.A. 1999*

(6) The profits and gains of the said undertaking shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such undertaking it shall be carried forward and set off against the profits and gains of the said undertaking for the following year and where it cannot be wholly set off, the amount of the loss not so set off, shall be carried forward for the next year and so on, but no loss shall be carried forward beyond the period specified by the Board in the order issued under sub-section (3) or (4).

(7) Unless otherwise specified by the Government, nothing contained in this section shall be so construed as to exempt the following from tax chargeable under this section:-

(a) any dividend paid, credited or distributed or deemed to have been paid, credited or distributed by a company to its share-holders out of the profits and gains; and

(b) any income of the said undertaking classifiable as "Capital gains" chargeable under the provisions of section 31; [1][***]

[2][(c) any income of the said undertaking resulting from disallowance made under section 30 [3][.

(d)***]

(8) Where any exemption is allowed under this section and in the course of making assessment, the Deputy Commissioner of Taxes is satisfied that any one or more of the conditions specified in this section are not fulfilled, the exemption will stand withdrawn for the relevant assessment year and the Deputy Commissioner of Taxes shall determine the tax payable for such year.

(9) Any such undertaking approved under this section may, not latter than one year from the date of approval, apply in writing to the Board for the cancellation of such approval, and the Board may pass such orders thereon as it may deem fit.

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[1] *Omitted by F.A. 2003*
[2] *Ins. by F.A. 2001*
[3] *Subs. "full-stop" for "semi colon" and omitted clause (d) by F.A. 2005*

(10) Notwithstanding anything contained in this section, the Board may, in the public interest, cancel or suspend fully or partially any exemption allowed under this section.

(11) The Board may make rules regulating the procedure for the grant of approval under sub-section (3), review under sub-section (4) and furnishing of information regarding payment of other taxes by the said undertaking and any other matters connected with or incidental to operation of this section.

[1][**46B. Exemption from tax of newly established industrial undertakings set up between the period of July, 2011 and June, [2][2019], etc. in certain cases.-** (1) Subject to the provisions of this Ordinance, income, profits and gains under section 28 from an industrial undertaking (hereinafter referred to as the said undertaking) set-up in Bangladesh between the first day of July, 2011 and the thirtieth day of June, [3][2019] (both days inclusive) shall be exempted from the tax payable under this Ordinance for the period, and at the rate, specified below:

if the said undertaking is set-up in-

[4][(i) Dhaka and Chittagong divisions, excluding Dhaka, Narayanganj, Gazipur, Chittagong, Rangamati, Bandarban and Khagrachari districts, for a period of five years beginning with the month of commencement of commercial production of the said undertaking:

Period of Exemption	**Rate of Exemption**
For the first and second year	100% of income
For the third year	60% of income
For the fourth year	40% of income
For the fifth year	20% of income ;

[1] *Subs. by F.A. 2011*
[2] *Subs. for "2015" by F.A. 2014*
[3] *Subs. for "2015" by F.A. 2014*
[4] *Subs. by F.A. 2013*

[1][(ii) Rajshahi, Khulna, Sylhet, Barisal and Rangpur divisions (excluding City Corporation area) and Rangamati, Bandarban and Khagrachari districts, for a period of ten years beginning with the month of commencement of commercial production of the said undertaking:

Period of Exemption	Rate of Exemption
For the First and second year	100% of income
For the third year	70% of income
For the fourth year	55% of income
For the fifth year	40% of income
For the sixth year	25% of income
For the seventh to tenth year	20% of income:

Provided that any industry engaged in the production of item as referred to in clause (e) or clause (l) of sub section (2) shall be entitled to exemption from tax under the provision of this section even if it is set up in the districts of Dhaka, Gazipur, Narayanganj or Chittagong.]

[1]Subs . by F.A. 2014

(2) For the purpose of this section-

"industrial undertaking" means an industry engaged in the production of-

(a) active pharmaceuticals ingredient industry and radio pharmaceuticals industry;

(b) barrier contraceptive and rubber latex;

(c) basic chemicals or dyes and chemicals;

(d) basic ingredients of electronic industry (e.g. resistance, capacitor, transistor, integrator circuit);

(e) bio-fertilizer;

(f) biotechnology;

(g) boilers;

[1][(gg) brick made of automatic Hybrid Hoffmann Kiln technology;]

(h) compressors;

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[1]*Ins . by F.A. 2014*

(i) computer hardware;

(j) energy efficient appliances;

(k) insecticide or pesticide;

(l) petro-chemicals;

(m) pharmaceuticals;

(n) processing of locally produced fruits and vegetables;

(o) radio-active (diffusion) application industry (e.g. developing quality or decaying polymer or preservation of food or disinfecting medicinal equipment);

(p) textile machinery;

(q) tissue grafting; or

(r) any other category of industrial undertaking as the Government may, by notification in the official Gazette, specify.

(3) Notwithstanding anything contained in sub-section (2), for the purpose of this section industrial undertaking shall not include expansion of such an existing undertaking.

(4) The exemption under sub-section (1) shall apply to the said undertaking if it fulfils the following conditions, namely:-

(a) that the said undertaking is owned and managed by-

(i) a body corporate established by or under any law for the time being in force with its head office in Bangladesh; or

(ii) a company as defined in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) with its registered office in Bangladesh and having a subscribed and paid up capital of not less than two million taka on the date of commencement of commercial production;

(b) that thirty percent of the exempted income under sub- section (1) is invested in the said undertaking or in any new industrial undertaking during the period of exemption or within one year from the end of the period to which the exemption under that sub-section relates and in addition to that, another ten percent of the exempted income under sub-section (1) is invested in each year before the expiry of three months from the end of the income year in the purchase of shares of a company listed with any stock exchange, failing which the income so exempted shall, notwithstanding the provisions of this Ordinance, be subject to tax in the assessment year for which the exemption was allowed:

Provided that the quantum of investment referred to in this clause shall be reduced by the amount of dividend, if any, declared by the company enjoying tax exemption under this section;

(c) that the said undertaking is not formed by splitting up or by reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in business which was being carried on in Bangladesh at any time before the commencement of the new business;

(d) that the said undertaking is approved, and during the relevant income year, stands approved by the Board for the purposes of this section;

(e) that application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within six months from the end of the month of commencement of commercial production;

(f) that the said undertaking obtained a clearance certificate for the relevant income year from the Directorate of Environment;

(g) that the said undertaking maintains books of accounts on a regular basis and submits return of its income as per provisions laid down in section 75 of this Ordinance.]

(5) Notwithstanding anything contained in this section, where an undertaking enjoying exemption of tax under this section is engaged in any commercial transaction with another undertaking or company having one or more common sponsor directors, and during the course of making an assessment of the said undertaking if the Deputy Commissioner of Taxes is satisfied that the said undertaking has purchased or sold goods at higher or lower price in comparison to the market price with intent to reduce the income of another undertaking or company, the exemption of tax of that undertaking shall be deemed to have been withdrawn that assessment year in which such transaction is made.

(6) The Board shall give its decision on an application made under clause (e) of sub-section (4) within forty five days from the date of receipt of the application by the Board, failing which the undertaking shall be deemed to have been approved by the Board for the purposes of this section:

Provided that the Board shall not reject any application made under this section unless the applicant is given a reasonable opportunity of being heard.

(7) The Board may, on an application of any person aggrieved by any decision or order passed under sub-section (6), if the application is made within four months of the receipt or such decision or order, review the previous decision, order or orders and pass such order in relation thereto as it thinks fit.

(8) The income, profits and gains of the undertaking to which this section applies shall be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession".

Provided that in respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third Schedule shall be allowed.

(9) The income, profits and gains of the undertaking to which this section applies shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such undertaking it shall be carried forward and set off against the profits and gains of the said undertaking for the next year and where it cannot be wholly set off, the amount of the loss not so set off, shall be carried forward for the following year and so on, but no loss shall be carried forward beyond the period specified by the Board in the order issued under sub-section (6) or (7).

(10) Unless otherwise specified by the Government, nothing contained in this section shall be so construed as to exempt the following from tax chargeable under this section:-

(a) any dividend paid, credited or distributed or deemed to have been paid, credited or distributed by a company to its share-holders out of the profits and gains;

(b) any income of the said undertaking classifiable as "Capital gains" chargeable under the provisions of section 31;

(c) any income of the said undertaking resulting from disallowance made under section 30.

(11) Where any exemption is allowed under this section and in the course of making assessment, the Deputy Commissioner of Taxes is satisfied that any one or more of the conditions specified in this section are not fulfilled, the exemption shall stand withdrawn for the relevant assessment year and the Deputy Commissioner of Taxes shall determine the tax payable for such year.

(12) Any such undertaking approved under this section may, not later than one year from the date of approval, apply in writing to the Board for the cancellation of such approval, and the Board may pass such order or orders thereon as it may deem fit.

(13) Notwithstanding anything contained in this section, the Board may, in the public interest, cancel or suspend fully or partially any exemption allowed under this section.

(14) The Board may make rules regulating the procedure for the grant of approval under sub-section (6), review under sub-section (7), furnish information regarding payment of other taxes by the said undertaking, and take such other measures connected therewith or incidental to the operation of this section as it may deem fit.

[1]**[46C. Exemption from tax of newly established physical infrastructure facility set up between the period of July, 2011 and June, [2][2019], etc. in certain cases.-** [3]**[**(1) Subject to the provisions of this Ordinance, income, profits and gains under section 28 from physical infrastructure facility, hereinafter referred to as the said facility, set up in Bangladesh between the first day of July, 2011 and the thirtieth day of June, [4][2019] (both days inclusive) shall be exempted from the tax payable under this Ordinance for ten years beginning with the month of commencement of commercial operation, and at the rate, specified below:

Period of Exemption	**Rate of Exemption**
For the first and second year	100% of income
For the third year	80% of income
For the fourth year	70% of income
For the fifth year	60% of income
For the sixth year	50% of income
For the seventh year	40% of income
For the eighth year	30% of income
For the ninth year	20% of income
For the tenth year	10% of income.]

(2) For the purpose of this section, "physical infrastructure facility" means,-

(a) deep sea port;

(b) elevated expressway;

(c) export processing zone;

(d) flyover;

(e) gas pipe line;

(f) Hi-tech park;

(g) Information and Communication Technology (ICT) village or software technology zone;

(h) Information Technology (IT) park;

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[1] *Ins. by F.A. 2011*
[2] *Subs. for "2015" by F.A. 2014.*
[3] *Subs. by F.A. 2013.*
[4] *Subs. for "2015" by F.A. 2014.*

(i) large water treatment plant and supply through pipe line;

(j) Liquefied Natural Gas (LNG) terminal and transmission line;

(k) mono-rail;

(l) rapid transit;

(m) renewable energy (e.g energy saving bulb, solar energy plant, windmill);

(n) sea or river port;

(o) [1][toll road or bridge];

(p) underground rail;

(q) waste treatment plant; or

(r) any other category of physical infrastructure facility as the Government may, by notification in the official Gazette, specify.

(3) The exemption under sub-section (1) shall apply to the said facility if it fulfils the following conditions, namely:-

(a) that the said facility is owned and managed by-

(i) a body corporate established by or under any law for the time being in force with its head office in Bangladesh; or

(ii) a company as defined in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) with its registered office in Bangladesh and having a subscribed and paid up capital of not less than two million taka on the date of commencement of commercial production;

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[1] *Subs F. A. 2012*

(b) that thirty percent of the exempted income under sub-section (1) is invested in the said facility or in any new physical infrastructure facility during the period of exemption or within one year from the end of the period to which the exemption under that sub-section relates and in addition to that, another ten percent of the exempted income under sub-section (1) is invested in each year before the expiry of three months from the end of the income year in the purchase of shares of a company listed with any stock exchange, failing which the income so exempted shall, notwithstanding the provisions of this Ordinance, be subject to tax in the assessment year for which the exemption was allowed:

Provided that the quantum of investment referred to in this clause shall be reduced by the amount of dividend, if any, declared by the company enjoying tax exemption under this section:

(c) that the said facility is approved, and during the relevant income year, stands approved by the Board for the purposes of this section;

(d) that application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within six months from the end of the month of commencement of commercial operation;

(e) that the said facility maintains books of accounts on a regular basis and submits return of its income as per provisions of section 75 of this Ordinance.

(4) The Board shall give its decision on an application made under clause (d) of sub-section (3) within forty five days from the date of receipt of the application by the Board, failing which the facility shall be deemed to have been approved by the Board for the purposes of this section:

Provided that the Board shall not reject any application made under this section unless the applicant is given a reasonable opportunity of being heard.

(5) The Board may, on an application of any person aggrieved by any decision or order passed under sub-section (4), if the application is made within four months of the receipt of such decision or order, review the previous decision, order or orders and pass such order in relation thereto as it thinks fit.

(6) The income, profits and gains of the facility to which this section applies shall be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession":

Provided that in respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third Schedule shall be allowed.

(7) The income, profits and gains of the facility to which this section applies shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such facility it shall be carried forward and set off against the profits and gains of the said facility for the next year and where it cannot be wholly set off, the amount of the loss not so set off, shall be carried forward for the following year and so on, but no loss shall be carried forward beyond the period specified by the Board in the order issued under sub-section (4) or (5).

(8) Unless otherwise specified by the Government, nothing contained in this section shall be so construed as to exempt the following from tax chargeable under this section :-

(a) any dividend paid, credited or distributed or deemed to have been paid, credited or distributed by a company to its share-holders out of the profits and gains;

(b) any income of the said facility classifiable as "Capital gains" chargeable under the provisions of section 31;

(c) any income of the said facility resulting from disallowance made under section 30.

(9) Where any exemption is allowed under this section and in the course of making assessment, the Deputy Commissioner of Taxes is satisfied that any one or more of the conditions specified in this section are not fulfilled, the exemption shall stand withdrawn for the relevant assessment year and the Deputy Commissioner of Taxes shall determine the tax payable for such year.

(10) Any such facility approved under this section may, not later than one year from the date of approval, apply in writing to the Board for the cancellation of such approval, and the Board may pass such order or orders thereon as it may deem fit.

(11) Notwithstanding anything contained in this section, the Board may, in the public interest, cancel or suspend fully or partially any exemption allowed under this section.

(12) The Board may make rules regulating the procedure for the grant of approval under sub-section (4), review under sub-section (5), furnish information regarding payment of other taxes by the said facility, and take such other measures connected therewith or incidental to the operation of this section as it may deem fit.]

47. Exemption of income of co-operative societies.- (1) The Tax shall not be payable by a co-operative society [1][***]in respect of-

(a) so much of its income as is derived by it as a result of such of its dealings with its members as involve sale of goods, the lending of money or the lease of buildings and land which is for the personal use of such members, or where such member is a firm or an association of persons, for the personal use of the partners or members thereof;

(b) the entire income from business carried on by it, if it is engaged in the following:-

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[1] *Deleted by F. A. 2012*

(i) agricultural or rural credit;

(ii) cottage industry;

(iii) marketing of agricultural produce of its members;

(iv) purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or

(v) such processing, not being the performance of any manufacturing operation with the aid of power, of the agricultural produce of its members as is ordinarily employed by a cultivator to render marketable the agricultural produce raised by him;

(c) any income from interest and dividends derived from its investments with any other co-operative society; and

(d) any income derived from the letting of godowns or warehouses for the purpose of storage, processing or facilitating the marketing of commodities belonging or meant for sale to its members.

Explanation.-For the purpose of this section,-

(a) "cottage industry" means an enterprise, not being owned by a joint stock company which fulfils the following conditions, namely:-

(i) it is basically an enterprise in which the owner is the investor, a full-time worker and the actual entrepreneur;

(ii) the capital invested in plant, machinery and equipment does not exceed [1][three lakh taka] at any time during the income year;

(iii) the number of workers, including the owner and the members of his family, shall not on any one twenty-four hour day during the income year, exceed [2][fifteen]; and

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[1] *Subs. for "one lakh taka" by F.A. 1995*
[2] *Subs. for "ten" by F.O. 1985*

(iv) the owner of the enterprise or any member of his family does not own any other industrial or commercial enterprise either in his own name or in the name of any other person; and

(b) "member of his family", in relation to the owner of an enterprise, means the parents, spouse and children dependent on the owner and employed in the enterprise, whether working full-time or part-time, or whether for or without any wages, remuneration or compensation in any form.

(2) Nothing contained in sub-section (1) shall apply to a co-operative society carrying on such business of insurance as is carried on by a mutual insurance association in respect of its profits and gains to which paragraph 8 of the Fourth Schedule applies.

CHAPTER VII
PAYMENT OF TAX BEFORE ASSESSMENT

48. Deduction at source and advance payment of tax.- (1) Notwithstanding that regular assessment in respect of any income is to be made later in any assessment year, and without prejudice to the charge and recovery of tax under this Ordinance after such assessment, the tax on income shall be payable by deduction or collection at source, or by way of advance payment, in accordance with the provisions of this Chapter.

(2) any sum deducted or collected, or paid by way of advance payment, in accordance with the provisions of this Chapter, shall, for the purpose of computing the income of an assessee, be deemed to be the income received, and be treated as payment of tax in due time, by the assessee.

49. Income subject to deduction at source.- (1) Tax payable under this Ordinance shall be deducted or collected at source in respect of the following income, namely :-

(a) income classifiable under the head "Salaries";

[1][(aa) income from discount on the real value of Bangladesh Bank bills;

(b) income classifiable under the head "Interest on securities";

[2][(bb)***]

(c) income derived on account of supply of goods, execution of contracts or services rendered ;

[3][(d) income derived by the importers on account of import of goods;]

(e) income derived on account of indenting commission ;

(f) income derived on account of winnings from lottery or crossword puzzles, as referred to in section 19 (13);

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[1] *Ins. by F.A. 2001*
[2] *Ins. by F.O. 1985 subsequently omitted by Ordinance No. XXXVI of 1985, dated 20/07/1985 w. e. f 01/07/1985*
[3] *Subs. by F.A. 2012*

(g) any income chargeable under this Ordinance which is paid or payable to a non-resident;

[1][(h) income classifiable under the head "Income from house property" ;

(i) income derived on account of export of manpower ;

[2][(ii) income derived on account of travel agency commission or incentive bonus;]

(j) income derived on account of purchase by public auction ;

(k) income derived on account of acting in films ;

[3][(l)***]

(m) income derived on account of shipping agency commission [4][***];]

[5][(n) income derived from commission, discount or fees payable to distributors for distribution or marketing of manufactured goods;]

[6][(o) income derived on account of interest on saving deposits, fixed deposits or term deposits and share of profit on term deposits;

(p) income derived on account of insurance commission ;

(q) income classifiable under the head "Capital gains";]

[7][(r) income derived on account of fees for professional or technical services;

(s) income derived on account of manufacture of cigarettes manually without any mechanical aid whatsoever;

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[1] *Clause (h), (i), (j), (k), (l) and (m) ins. by F.A. 1988*
[2] *Ins. by F.A. 2014*
[3] *Omitted by F.A. 1993*
[4] *Omitted by F.A. 1999*
[5] *Clause (n) ins. by F.A. 1989 with the word "and" added after clause (m), and subs. by F.A. 2001*
[6] *Clause (o), (p) and (q) ins. by F.A. 1991. of which clause (o) & (p) made applicable from the asstt. year 1990-91*
[7] *Clause (r), (s), (t), (u), (v), (w), (x), (y) and (z) ins. by F.A. 1999*

(t) income derived from compensation against acquisition of property;

(u) income derived on account of interest on savings instruments;

[1][(v)***]

(w) income derived on account of running of brick field;

(x) income derived on account of services rendered by the doctors;

[2][(y)***]

(z) income derived on account of commission of letter of credit;]

[3][(za) income derived on account of survey by a surveyor of general insurance company

[4][(zb)***]

(zc) income derived on account of commission, remuneration or charges as a foreign buyer's agent;]

[5][(zd) income from dividends;

[6][(ze) income derived on account of rendering certain services [7][;

[8][(zf) income derived on account of shipping business carried on both inside and outside Bangladesh by a resident assessee];

(zg) income derived on account of business of real estate and land developer;

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[1] *Omitted by F.A. 2001*
[2] *Omitted by F.A. 2000*
[3] *Ins. clause (za), (zb) and (zc) by F.A. 2000*
[4] *Omitted by F.A. 2001*
[5] *Ins. by F.A. 2001*
[6] *Ins. by F.A. 2002*
[7] *Ins. by F.A. 2005*
[8] *Subs. by. F.A. 2009*

(zh) income derived by an exporter on account of export of [1][any commodity;

(zi) income derived by a member of a stock exchange on account of transaction of shares, debentures, mutual funds, bonds or securities;]

[1][(zj) income derived on account of courier business of a non-resident;]

[2][(zk***)]

[3][(zkk) income derived on account of export cash subsidy;]

[4][(zl)***]

[5][(zm) on account of [6][***]renewal of trade licence;

[7][(zn)***]

(zo) income derived on account of freight forward agency commission [8][;

(zp) income derived on account of rental power;

(zq) income derived on account of interest of Post Office Savings Bank Account;

(zr) income derived on account of rental value of vacant land or plant or machinery;

(zs) income derived on account of advertisement [9][;

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[1] *Ins. by F.A. 2006*
[2] *Omitted by F.A. 2009*
[3] *Ins. by F.A. 2012*
[4] *Omitted by F.AO 2007*
[5] *Ins. by F.O 2007*
[6] *Omitted by F.O 2008*
[7] *Omitted by F.A. 2010*
[8] *Subs. "semi-colon" for "full-stop" and ins. new clauses (zp), (zq), (zr) and (zs) by F.O 2008*
[9] *Ins. by F.A. 2009*

(zt) income derived by foreign technician serving in a diamond cutting industry [1][;

[2][(zu)***]

(zv) income derived from transfer of securities or mutual fund units by sponsor shareholders of a company etc [3][;

(zw) deduction of tax for services from convention hall, conference centre, room or, as the case may be, hall etc.;

(zx) deduction of tax from residents for any income in connection with any service provided to any foreign person [4][;

(zy) income derived on account of international gateway service in respect of phone call;]

[5][(zz) collection of tax from manufacturer of soft drink] [6][;

(zza) income derived from insurance policy;
(zzb) deduction of tax from local letter of credit (L/C);
(zzc) income derived from any fees, revenue sharing, etc. from cellular mobile phone operator;
(zzd) income from transfer of share of any stock exchange;
(zze) income from transfer of share of company listed in any stock exchange;
(zzf) income derived from lease of property.]

(2) Tax to be deducted at source under sub-section (1) in respect of any income shall be deducted in accordance with the provisions of this Chapter by the person responsible for making payment which constitutes the income of the payee.

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[1] Subs. "semi-colon" for "full-stop" and ins. new clauses (zu), and (zv) by F.A. 2010
[2] Omitted by F.A. 2013
[3] Subs. "semi-colon" for "full-stop" and ins. new clauses (zw), and (zx) by F.A. 2011
[4] Subs. "semi-colon" for "full-stop" and ins. new clauses (zy) by F.A. 2012
[5] Subs. for "collection of tax from manufacturer of soft drink" by F.A. 2013
[6] Ins.by F.A.2014

(3) For the purpose of this Chapter, "person responsible for making payment", with its grammatical variations and cognate expressions, means-

(a) in the case of payments constituting income classifiable under the head "Salaries," [1][***] the employer himself or, if the employer is a local authority, company or institution, such authority, company or institution, including the principal officer thereof;

(b) in the case of payments constituting income classifiable under the head "Interest on securities," not being payment made by or on behalf of the Government, the authority, company or other institution issuing the security or the principal officer thereof ; and

(c) in the case of payment of any other sum which constitutes an income of the payee chargeable to tax under this Ordinance, the payer himself, or if the payer is a company or other institution, such company or institution including the principal officer thereof.

50. Deduction at source from salaries.- (1) The person responsible for making any payment which constitutes income of the payee classifiable under the head "Salaries" shall, at the time of making such payment, deduct tax on the amount so payable at a rate representing the average of the rates applicable to the estimated total income of the payee under that head.

(2) At the time of making any deduction under sub-section (1), the amount to be deducted may be increased or decreased for the purpose of adjusting any excess or deficiency arising out of any previous deductions or failure to make deductions.

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[1] *Omitted by F.A. 2011*

[1][(2A) The payment under sub-section (1) shall be made by such person with or without deduction of tax in accordance with a certificate, issued by the Deputy Commissioner of Taxes after being satisfied on an application made by the payee in this behalf, where such certificate specifies that-

(a) no tax shall be deducted from the payee in a case where the tax payable on the total income of the payee has already been dedcuted or collected from such payee under this Ordinance for the rest of the income year; or

(b) tax shall be deducted at a lesser rate for the rest of the income year in a case where the payee may, after adjusting the tax already deducted or collected from such payee under this Ordinance, be liable to pay a lesser sum of tax than the tax chargeable on his total income.]

(3) For the purposes of deduction under sub-section (1) in respect of salary payable in a foreign currency, the value in taka of such salary shall be calculated at such rate as the Board may prescribe.

[2]**[50A. Deduction at source from discount of the real value of Bangladesh Bank bills.-** Any person responsible for paying any amount on account of discount on the real value of Bangladesh Bank bills shall, at the time of making such payment, deduct tax at the maximum rate on the amount so payable or the rate applicable to such amount, whichever is greater.

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[1] *Ins. by F.A. 2013*
[2] *Ins. by F.A. 1997*

[1]*[Provided that no tax shall be deducted under this section where the said bill is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized providend fund, or a workers' profit participation fund]*

[2]**[50B. Deduction of tax from payment of remuneration to Members of Parliament.-** Any person responsible for making any payment as remuneration to a Member of Parliament shall, at the time of making such payment, deduct tax on the amount so payable at a rate representing the average of the rates applicable to the estimated total remuneration of the payee for that income year.]

51. Deduction at source from interest on securities.- [3][(1) In the case of the security of the Government, or security approved by the Government, unless the Government otherwise directs, the person responsible for issuing any security, income of which is classifiable under the head "Interest on securities", shall collect income tax at the rate of [4][five percent (5%)] upfront on interest or discount, receivable on maturity, from the purchaser of the securities] [5][.]

[6][***Proviso]

[7][(2)***]

[8][(3)***]

[9]**[(51A)***]**

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[1] *Ins. Proviso by F.A. 2004*

[2] *Ins. new section 50B by F.A. 2011*

[3] *Subs. by F.A. 2004 re-subs. by F.A. 2005*

[4] *Subs for Ten percent (10%) by F.A. 2014*

[5] *Subs. full-stop for colon by F.A. 2014*

[6] *Omitted by F.A. 2014*

[7] *Omitted by F.A. 2005*

[8] *Omitted by F.A. 2014*

[9] *Ins. sec.51A by F.O. 1985 and subsequently omitted by I.T..(amend.) Ord. 1985(sec-2)*

52. Deduction from payment to contractors, etc.- (1) Where any payment is to be made, whether in full or in part, or by way of advance, on account of indenting commission [1][***]or shipping agency commission or supply of goods or [2][execution of contract or sub-contract] [3][***][4][***] to any such person or class of persons as may be prescribed, the person responsible for making the payment shall, at the time of making such payment deduct tax on the amount so payable at such rate as may be prescribed.

(2) Any amount deducted under sub-section (1) shall be deemed to be an advance payment of tax by the payee and shall be given credit for in the assessment of his tax.

[5][**52A. Deduction at source from fees for professional or technical services.-** (1) The principal officer of any company registered under [6][***] কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) or the chief executive of any non-government organization registered with the NGO Affairs Bureau or the chief executive of any trust registered under the Trusts Act,1882 (II of 1882) running any general or specialized hospital or any diagnostic centre shall be responsible for making any payment to any doctor which may be payable to him on account of fees for services rendered by him to a patient in such hospital or diagnostic centre and shall, at the time of making such payment [7][or credit of such payment to the account of the payee], deduct income tax at the rate of [8][ten per cent] on the amount so payable.

(2) The government or any other authority, corporation or body, including its units, the activities of which are authorised by any Act, Ordinance, Order or instrument having the force of law in Bangladesh, or any company as defined in clause (20) of section 2 or any banking company or any insurance company or any co-operative bank or any non-government organisation registered with NGO Affairs Bureau, responsible for making any payment on account of royalty or technical know how fee shall deduct or collect, at the time of credit of such royalty or fee to the account of the payee or at the time of payment there of in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, as advance payment of tax at the rate of ten per cent of such royalty or fee.

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[1] *Omitted by F.A. 1993*
[2] *Subs. for "execution of contract" by F.O. 2007*
[3] *Omitted by F.A.2014*
[4] *Omitted by F.A. 1998*
[5] *Subs. by F.A. 2002 and again subs. by F.A. 2004*
[6] *Omitted by F.A. 2011*
[7] *Ins. by F.A. 2011*
[8] *Subs. for "five percent" by F.O. 2007*

(3) The government or any other authority ,corporation or body, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh, or any company as defined in clause (20) of section 2 or any banking company or any insurance company or any co-operative bank or any non-government organisation registered with NGO Affairs Bureau, responsible for making any payment on account of fees for professional or technical services shall deduct or collect, at the time of credit of such fees to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, as advance payment of tax at the rate of-

[1][(a) ten per cent of such fees where the person receiving such fees furnishes his [2][twelve-digit Taxpayer's Identification Number] (TIN) to the payer; or

(b) fifteen per cent of such fees where the person receiving such fees fails to furnish his [3][twelve-digit Taxpayer's Identification Number] (TIN) to the payer]:

Provided that where the Board, on an application made in this behalf, gives a certificate in writing that the person rendering professional or technical services is not likely to have any assessable income during the year or the income is otherwise exempted from tax under any provision of this Ordinance, payment referred to in this section shall be made without any deduction until the certificate is cancelled.

Explanation: **-** For the purposes of this section **-**

(a) "professional services" means services rendered by a person in the course of carrying on legal, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising [4][or actuarial service] [5][or any other services applying professional knowledge] but does not include services rendered by doctors;

(b) "fees for technical services" shall have the same meaning as in clause (31) of section 2 but does not include royalty, technical know -how fee.

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[1] *Ins. by F.A. 2013*
[2] *Subs. by F.A. 2014*
[3] *Subs. by F.A. 2014*
[4] *Ins. by F.A. 2014*
[5] *Ins. by F.A. 2011*

[1]**[52AA. Deduction from the payment of certain services.-** The government or any other authority, corporation or body, including its units, the activities of which are authorised by any Act, Ordinance, Order or instrument having the force of law in Bangladesh or any company as defined in clause (20) of section 2 of this Ordinance or any banking company or any insurance company or any co-operative bank or any non-government organisation registered with the NGO Affairs Bureau, responsible for paying any commission to a [2][***]stevedoring agency or making any payment to a private security service agency [3][or making any payment to any person for rendering any service other than the services specified in this Chapter], shall deduct income tax at the rate of [4][ten percent] on the amount so payable at the time of such payment [5][or credit of such payment to the account of the payee]:]

[6][Provided that where the Board, on an application made in this behalf, gives a certificate in writing that the person rendering such services is not likely to have any assessable income during the year or the income is otherwise exempted from tax under any provision of this Ordinance, the payment referred to in this section shall be made without any deduction or with deduction at a lesser rate for that income year.]

[7]**[52AAA. Collection of tax from clearing and forwarding agents.-** The Commissioner of Customs shall make collection on account of commission receivable by clearing and forwarding agents licensed under Customs Act, 1969 at the rate of [8][ten percent] on such commission at the time of clearance of goods imported or exported].

[9]**[52B. Collection of tax from Cigarette manufacturers .-** Any person responsible for selling banderols to any manufacturer of cigarettes shall, at the time of selling banderols, collect tax from such manufacturer on account of the manufacture of cigarettes at the rate of [10][ten per cent] of the value of the banderols.

Explanation- For the purposes of this section, "manufacture of cigarettes" means manufacture of cigarettes manually without any mechanical aid whatsoever.

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[1] ns. by F.A. 2002
[2] Omitted by F.A. 2004
[3] ns. by F.A. 2011
[4] Subs. for "seven and half per cent" by F.A. 2010
[5] Ins. by F.A. 2011
[6] Ins. Proviso. by F.A. 2013
[7] Ins. by F.A. 2004
[8] Subs. for "seven and half per cent" by F.A. 2010
[9] Sec 52B & 52C ins. by F.A. 1998
[10] Subs. for "five per cent" by F.A. 2000 again subs for "three per cent" by F.A. 2005 again subs. for "four per cent" by F.O. 2007again subs. for "ten per cent" by F.A.2013

[1]**[52C. Deduction at source from compensation against acquisition of property.-** Any person, responsible for paying any amount of compensation against acquisition by the Government of any immovable property shall, at the time of paying such compensation deduct advance tax at the rate of,-

(a) two per cent of the amount of such compensation where the immovable property is situated in any city corporation, paurashava or cantonment board;

(b) one per cent of the amount of such compensation where the immovable property is situated outside any city corporation, paurashava or cantonment board.]

[2]**[52D. Deduction at source from interest on saving instruments.-** Any person responsible for making any payment by way of interest on any savings instruments shall, at the time of such payment, deduct income tax at the rate of [3][five percent] on such interest:

[4]*[(Proviso)***]*

[5]*[(Proviso)***]*

[6]*[Provided* [7][***]*that no tax shall be deducted under this section where the savings instrument is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized* [8]*[provident fund, or a workers" profit participation fund]* [9]*[:*

Provided further that no tax shall be deducted under this section where the cumulative investment at the end of the income year in the pensioners' savings certificate or wage earners development bond does not exceed five lakh taka.]

[10]*[(Proviso)***]*

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[1] *Subs. by F.A 2010*
[2] *Sec. 52D, 52E, 52F, 52G, 52H, and 52I ins. by F.A. 1999*
[3] *Subs. for "ten percent" by F.A. 2011*
[4] *Omitted proviso by F.A. 2002*
[5] *Omitted by F.A. 2010*
[6] *Ins. by F.A. 2002*
[7] *Omitted by F.A. 2010*
[8] *Subs. for "Providend fund" by F.A. 2003*
[9] *Ins by F.A.2014*
[10] *Omitted proviso by F.A. 2011*

[1] **[(52E).***]**

[2]**[52F. Collection of tax from brick manufacturers.-** Any person responsible for issuing any permission or renewal of permission for the manufacture of bricks shall, at the time of issuing such permission or renewal of permission, collect tax from such manufacturer at the time of issuance of such permission or renewal at the following rates:

[3][(a) taka forty five thousand for one section brick field;

(b) taka seventy thousand for one and half section brick field;

(c) taka ninety thousand for two section brick field;

(d) taka one lakh and fifty thousand for brick field producing bricks through automatic machine.]

Explanation:- For the purpose of this section, the word "section" shall have the same meaning as defined in মৌসুমী ইটভাটা মূল্য সংযোজন কর বিধিমালা, ২০০৪.]

[4]**[(52G).***]**

[5]**[(52H).***]**

52I. Deduction from the commission of letter of credit.- Any person responsible for opening letter of credit for the purpose of import of goods for himself or for any other person shall, at the time of collecting commission with respect to letter of credit, deduct income tax at the rate of five per cent. on the amount of such commission.

[6]**[(52J.)***]**

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[1] *Omitted by F.A. 2001*
[2] *Ins. by F.A. 2005*
[3] *Subs. by F.A. 2014*
[4] *Omitted by F.A. 2004*
[5] *Omitted by F.A. 2000*
[6] *Ins. by F.A. 2000 subsequently omitted by F.A. 2001*

[1]**[52JJ. Collection of tax from travel agent.-** Any person responsible for paying to a resident, any sum by way of commission or discount or incentive bonus or any other benefits convertible into money, called by whatever name, for selling tickets of an airline, or for carrying cargo by air, shall deduct or collect advance tax at the rate of three per cent at the time of paying such commission or incentive bonus or any other benefits or allowing discount.]

[2]**[** [3]**[52K. Collection of tax by City Corporation or Paurashava at the time of renewal of trade license.-** Any person responsible for renewal of trade licence shall collect tax at the time of such renewal of each trade license at the rate of -

(a) taka five hundred in Dhaka City Corporation or Chittagong City Corporation;

(b) taka three hundred in any city corporation, other than Dhaka and Chittagong city corporation;

(c) taka three hundred in any paurashava at any district headquarter;

(d) taka one hundred in any other paurashava.]

[4]**[(52L.)***]**

52M. Collection of tax from freight forward agency commission.- Any person responsible for making any payment by way of freight forward agency commission, at the time of making such payment [5][or credit of such payment to the account of the payee], shall deduct tax at the rate of [6][fifteen percent] of the said amount.

[7]**[52N. Collection of tax on account of rental power. -** Notwithstanding anything contained in this Ordinance, Bangladesh Power Development Board , at the time of payment to any rental power company on account of purchase of rental power from that company, shall collect , deduct or pay tax on the said payment [8][***] at the rate of [9][six per cent] [10][***].

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[1] *Ins by F.A.2014*
[2] *Ins. section 52K, 52L and 52M by F.O 2007*
[3] *Subs. by F.O. 2008 again subs. by F.A. 2012*
[4] *Omitted by F.A. 2010*
[5] *Ins. by F.A. 2011*
[6] *Subs. for "seven and half per cent" by F.A. 2010*
[7] *Ins. by Income Tax(Amendment) Act, 2009 (Act No. 11 of 2009). Dated: 24/02/2009*
[8] *Omitted by F.A. 2011*
[9] *Subs for "four per cent" by F.A.2014*
[10] *Omitted by F.A. 2012*

[1]**[52O. Collection of tax from a foreign technician serving in a diamond cutting industry.-** The person responsible for making any payment-which constitutes income chargeable under the head "Salaries" received by or due to any person who is neither a citizen of Bangladesh nor was resident in Bangladesh in any of the four years immediately preceding the year in which he arrived in Bangladesh, as remuneration for services rendered by him for a period not exceeding three years from the date of his arrival in Bangladesh, during such period, as a technician employed in diamond cutting industries under a contract of service, shall deduct tax at the rate of five percent of such salaries at the time of making payment or giving credit which ever is earlier:

provided that the provisions of this clause shall not be applicable to foreign technicians appointed after June 30.2010.]

[2]**[52P. Deduction of tax for services from convention hall, conference centre, etc.-** Any person, being a corporation, body or authority established by or under any law including any company or enterprise owned, controlled or managed by it, or a company registered under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), any Non-government Organization registered with N.G.O Affairs Bureau or any university or medical college or dental college or engineering college which makes any payment to any person on account of renting or using space of convention hall, conference centre, room or, as the case may be, hall, hotel, community centre or any restaurant, shall deduct tax at the rate of five percent from the whole amount paid for the services thereof at the time of making such payment or at the time of credit of such payment to the account of the payee:

Provided that no deduction shall be made by a company when such amount is paid directly to the government.

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[1] Ins. by F.A. 2009
[2] Ins. new sections 52P & 52Q by F.A. 2011

52Q. Deduction of tax from resident for any income in connection with any service provided to any foreign person.- Any person, responsible for paying or crediting to the account of a resident any sum remitted from abroad by way of service charges or consulting fees or commissions or remunerations or any other fees called by whatever name for any service rendered or any work done by a resident person in favour of a foreign person, shall deduct tax at the rate of ten percent of the amount so paid at the time of making such payment or credit of such payment to the account of the payee.]

[1]**[52R. Deduction of tax from receipts in respect of international phone call. -** (1)The bank, through which any sum on account of International Gateway(IGW) Services in respect of international phone call is received, shall deduct tax at the rate of one percent of the total amount representing the said receipt at the time of crediting it to the account of the international Gateway(IGW) Services operator.

(2) The International Gateway(IGW) Services operator, by which any sum related to international phone call is paid or credited to the account of Interconnection Exchange (ICX), Access Network Services (ANS) or any other person under an agreement with the Bangladesh Telecommunication Regulatory Commission (BTRC), shall deduct tax at the rate of five percent on the whole amount so paid or credited at the time of such payment or credit under the said agreement.

(3) Notwithstanding anything contained in sub-section (1) or (2), where the Board gives a certificate in writing on an application made by a person that income of the person is exempted from tax or will be liable to tax at a rate of tax less than the rate specified in this section, the person responsible for such payment shall make the payment-

(a) without deduction of tax; or
(b)after deducting tax at a rate specified in the certificate.]

[2]**[52S. Collection of tax from manufacturer of soft drink [3][, etc].-** The Security Printing Corporation (Bangladesh) Limited, or any other person responsible for delivery of banderols or stamps, shall collect, at the time of delivery of such banderols or stamps to any manufacturer of soft drinks [4][or mineral or bottled water], tax at the rate of three per cent of the value of such soft drinks [4][or mineral or bottled water] as determined for the purpose of the Value Added Tax (VAT).]

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[1] *Ins. new section 52R, by F.A. 2012*
[2] *Ins. new section 52S by F.A. 2013*
[3] *Ins. by F.A. 2014*
[4] *Ins. by F.A. 2014*

[1]**[52T. Deduction of tax from any payment in excess of premium paid on life insurance policy.-** Any person responsible for paying to a resident, any sum in excess of premium paid for any life insurance policy maintained with any life insurance company, shall deduct, at the time of payment of such excess amount to the policy holder, income tax at the rate of five per cent on such sum:

Provided that no deduction of tax shall be made in case of death of such policy holder.

52U. Deduction from payment on account of local letter of credit.- The bank or financial institution, through which any local letter of credit or any financing agreement, called by whatever name, is made between two or more persons within the country for purchasing or procuring of any goods and proceeds of such goods are paid, shall deduct tax at the rate of three per cent, on the total proceeds exceeding five lakh taka, at the time of paying or crediting such proceeds to the account of the person or persons providing such goods:

Provided that no tax shall be deducted under this section from the payment related to local letter of credit (L/C) and any other financing agreement in respect of purchase or procurement of rice, wheat, potato, onion, garlic, peas, chickpeas, lentils, ginger, turmeric, dried chillies, pulses, maize, coarse flour, flour, salt, edible oil, sugar, black pepper, cinnamon, cardamom, clove, date, cassia leaf and all kinds of fruits.

52V. Deduction from payment by cellular mobile phone operator.- The Principal Officer of a cellular mobile phone operator company responsible for making any payment, on account of any revenue sharing or any license fees or any other fees or charges, called by whatever name, to the regulatory authority, shall deduct tax at the rate of ten percent of such payment at the time of credit to the payee or at the time of payment thereof, whichever is earlier.]

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[1] *Ins. new sections 52T, 52U & 52V by F.A. 2014*

53. Collection of tax from importers.- [1]**[***]** [2][(1) The [3][Commissioner of Customs] shall make collection of tax payable by the importers on account of import of goods [4][***].]

(2) The Board shall, for the purpose of collection of tax under sub-section (1),-

(a) specify the importers [5][***] from whom collections are to be made; and

(b) prescribe the method and rate of calculation of the amount to be collected and the manner of collection.

(3) Any amount collected under sub-section (1) shall be deemed to be an advance payment of tax by the importer [6][***] concerned, and shall be given credit for, in the assessment of his tax.

[7]**[53A. Deduction at source from house property.-** [8][(1) Where, the Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorised by any Act, Ordinance, order or instrument having the force of law in Bangladesh or any company as defined in clause (20) of section 2, or any banking company or any co-operative bank established by or under any law for the time being in force or any non-governmental organisation run or supported by any foreign [9][donation or assistance or any university or medical college or dental college or engineering college] [10][or any college or school [11][or hospital or clinic or diagnostic centre] is a tenant in respect of a house property, the tenant shall deduct from the house rent paid or payable as advance tax [12][at the rate of five percent].]

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[1] *Omitted by F.A. 2012*
[2] *Subs. by F.A. 1992*
[3] *Subs. for "Collector of Customs" by F.A. 2001*
[4] *Omitted by F.A. 2012*
[5] *Omitted by F.A. 2012*
[6] *Omitted by F.A. 2012*
[7] *Ins. by F.A. 1988*
[8] *Subs. by F.A. 1992*
[9] *Subs. for "donation or assistance" by F.A. 2004*
[10] *Ins. by F.A. 2012*
[11] *Ins. by F.A. 2014*
[12] *Subs. for "such amount as may be prescribed" by F.A. 2012*

[1]***[Explanation.-*** For the purpose of this section, "house rent" means any payment, by whatever name called, under any lease, tenancy or any other agreement or arrangement for the use of any building including any furniture, fittings and the land appurtenant thereto.]

(2) Where, after the assessment made for the relevant year, it is found that no tax was payable by the owner of the house property or the amount of tax deducted is in excess of the amount payable, the amount deducted shall be refunded,-

(a) if no tax was payable, in full, or

(b) if the amount deducted is in excess of the amount payable, to the extent of the excess deduction to the owner of the house property.

(3) Where the Deputy Commissioner of Taxes, on an application made in this behalf, gives a certificate in the prescribed form to an owner of house property that, to the best of his belief, the owner is not likely to have any assessable income during the year or the income is otherwise exempted from payment of income tax under any provisions of this Ordinance, payment referred to in sub-section (1) shall be made without any deduction until the certificate is cancelled.

[2]**[53AA. Collection of tax from shipping business of a resident.-** Commissioner of Customs or any other authority, duly authorised in this behalf, shall not grant port clearance to a ship owned or chartered by a resident assessee unless tax at the rate of [3][five per cent] of total freight received or receivable in or out of Bangladesh has been paid for carriage of passengers, livestock, mail or goods, shipped at any port of Bangladesh [4][:

Provided that tax shall be collected at the rate of three per cent of total freight received or receivable from services rendered between two or more foreign countries.]

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[1] *Ins. by F.A. 1999*
[2] *Ins. Sec. 53AA by F.A. 2005*
[3] *Subs. for "four percent" by F.O. 2007*
[4] *Ins. by F.A. 2009*

[1][**53B. Deduction of tax from income derived on account of export of manpower.-** The Director General, Bureau of Manpower, Employment and Training shall, before giving clearance for export of any manpower, collect from the exporter concerned as advance tax on income on account of such export [2][at such percentage] of the service charge or fees mentioned in clause (n) and clause (r), respectively, of section 19(2) of the Emigration Ordinance, 1982 (XXIX of 1982), as may be prescribed.

[3][[4][**53BB. Collection of tax from export of certain items.-** The bank, through which export proceeds of an exporter of knit wear and woven garments, terry towel, carton and accessories of garments industry jute goods, frozen food, vegetables, leather goods, packed food is received, shall deduct tax at the rate of [5][zero point eight zero percent (0.80%)] of the total export proceeds at the time of crediting the proceeds to the account of the exporter:

Provided that where the Board, on an application made in this behalf, gives a certificate in writing that the income of the exporter is partly or fully exempted from tax under any provision of the Ordinance, credit to the account of the assessee shall be made without any deduction of tax or deduction of tax at a rate less than the rate specified in this section for the period mentioned in that certificate.

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[1] *Ins. Sec. 53B, 53C and 53D by F.A. 1988*

[2] *Subs. for "at such rate, not exceeding seven and a half per cent" by F.A. 1993*

[3] *Ins. Sec. 53BB and 53BBB by F.A. 2005*

[4] *Subs. Sec 53BB by F.A. 2009*

[5] *Subs. for "zero point six zero percent (0.60%)" by F.A. 2011subsequently subs. for "zero point eight zero percent (o.80%)" by F.A. 2012*

53BBB. Collection of tax from Member of Stock Exchanges.- The Chief Executive Officer of a stock exchange shall collect tax at the rate of *[zero point zero five percent (0.05%)] on the value of shares, debentures, mutual funds [1][***] or securities transacted by a member of a stock exchange at the time of payment for such transaction.]

[2]**[53BBBB. Collection of tax from export of any goods except certain items.-** The bank, through which export proceeds of an exporter of any goods except knit wear, woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods and packed food is received, shall deduct tax at the rate of [2][zero point eight zero percent (0.80%)] of the total export proceeds at the time of crediting the proceeds to the account of the exporter, which shall be deemed to be an advance payment of tax by the exporter and shall be given credit for the assessment of his tax:

Provided that where the Board, on an application made in this behalf, gives a certificate in writing that the income of the exporter is partly or fully exempted from tax under any provision of the Ordinance, credit to the account of the assessee shall be made without any deduction of tax or deduction of tax at a rate less than the rate specified in this section for the period mentioned in that certificate.]

53C. Collection of tax on sale price of goods or property sold by public auction.- Any person making sale, by [3][public auction through sealed tender or otherwise,] of any goods or property belonging to the Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorised by any Act, Ordinance, order or instrument having the force of law in Bangladesh or any company

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* *The rate "zero point one zero percent (0.10%)" has been reduced to "zero point zero five percent 0 .050%)" by এস.আর.ও নং ৩৩৪-আইন/আয়কর/২০১১, তারিখঃ ২৭/১০/২০১১*

[1] *Omitted by F.A. 2013*

[2] *Subs. for "zero point five zero percent" (0.50%)" by F.A. 2011 subsequently subs. for "zero point seven percent (0.70%)" by F.A. 2012*

[3] *Subs. for "public auction" by F.A. 1996*

[1][***] as defined in [2][[3][***] কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), or any banking company, or any insurance company or any co-operative bank established by or under any law for the time being in force shall collect, before delivering the possession of the goods or the property, as advance tax on the income from the sale price of such goods or property from the auction purchaser at such rate, not exceeding seven and a half per cent. of the sale price, as may be prescribed.

Explanation.- For the purposes of this section, sale of any goods or property includes the awarding of any lease to any person, including a lease of the right to collect octroi duties, fees or other levies, by whatever name called, but does not include sale of a plot of land.

[4][53CC. Deduction or collection of tax at source from courier business of a non-resident.- Any person being a company registered under the Companies Act, 1913(VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) working as local agent of a nonresident courier company shall deduct or collect tax in advance at the rate of [5][fifteen percent] on the amount of service charge accrued from the shipment of goods, documents, parcels or any other things outside Bangladesh.]

[6]**[53D. Deduction from payment to actors, actresses, producers, etc.-** (1) A person responsible for making any part or full payment for purchasing a film, drama or television or radio programme shall deduct tax at the rate of ten percent of the amount paid or payable at the time of making payment or credit of such payment to the account of the payee.

(2) A person responsible for making any part or full payment to another person for performing in a film, drama, advertisement or any television or radio programme shall deduct tax at the rate of ten percent of the amount paid or payable at the time of making payment or credit of such payment to the account of the payee [7][:

Provided that no tax shall be deducted under this section if the total payment does not exceed ten thousand taka.]]

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[1] *Omitted by F.A. 2011*

[2] *Subs. for "the companies Act. 1913 (VII of 1913)" by F.A. 1995*

[3] *Omitted by F.A. 2011*

[4] *Ins. by F.A. 2006*

[5] *Subs. for "seven and half percent" by F.A. 2010*

[6] *Subs. by F.A. 2011*

[7] *Subs. "colon" for "full-stop" and ins. new proviso by F.A. 2012*

[1]**[(53DD.)***]**

[2]**[53DDD. Deduction of tax at source from export cash subsidy.-** Any person responsible for paying any amount on account of export cash subsidy to an exporter for promotion of export shall, at the time of payment or credit of such amount, deduct or collect tax in advance at the rate of [3][three per cent] on the amount so payable.]

53E. Deduction or collection at source from [4][commission, discount or fees].- [5]**[**(1) Any person being a corporation, body or authority established by or under any law including any company or enterprise owned, controlled or managed by it, or a company registered under [6][7][***] কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) which makes any payment to any distributor or to any other persons by way of commission, or fees [8][or allows any discount] for distribution or marketing of goods [9][***], shall deduct or collect at the time of credit of such commission, or fees or at the time of payment thereof, whichever is earlier, [10][or at the time of allowing discount] as advance tax an amount at the rate [11][[12][ten percent]. of commission, or fees payable or discount allowed]

(2) [13][Any company, as defined in clause (20) of section 2 of this Ordinance other than oil marketing company, which sells goods to any distributor or to any other persons under a written contract at a price lower than the retail price fixed by such company, shall collect at the time of sale of such goods to such distributor or other persons at the rate of [14][three per cent] of the difference between the sale price to the distributor or other persons and the retail price fixed by such company.]

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[1] Ins. by F.A. 2006 and omitted by F.A. 2009
[2] Ins. new section 53DDD by F.A. 2012
3 Subs for "five per cent" by F.A.2014
[4]Subs. for "commission or fees" by F.A. 2001
5 Existing law of section 53E is numbered as a sub-section (1) & ins new sub section (2) by F.A 2013
[6] Subs. for "the Companies Act. 1913 (VII of 1913)" by F.A. 1995
7 Omitted by F.A. 2011
[8] Subs. for "by way of commission or fees" by F.A. 2001
[9] Omitted by F.A. 2011
[10]Subs. for whichever is earlier" by F.A. 2001
[11] Subs. for "five per cent of commission or fees payable" by F.A. 2001
[12] Subs. for "seven and half percent" by F.A. 2011
[13] Subs. for Sec.53E sub-sec.(2) by F.A. 2013
[14] Subs for "five per cent" by F.A.2014

[1]**[53EE. Deduction of tax from commission or remuneration paid to agent of foreign buyer.-** Where, in accordance with the terms of the letter of credit or under any other instruction, a bank, through which an exporter receives payment for export of goods, pays any amount out of the export proceeds to the credit of any person being an agent or a representative of the foreign buyer, as commission, charges or remuneration by whatever name it may be called, the bank shall deduct or collect tax in advance at the rate of [2][seven and a half percent] on the commission, charges or remuneration so paid at the time of such payment.]

[3]**[53F. Deduction at source from interest on saving deposits and fixed deposits, etc.-** (1) Any person responsible for paying to a resident any sum by way of interest or share of profit on any saving deposits or fixed deposits or any term deposit maintained with any Scheduled bank including a co-operative bank or any bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, shall deduct, at the time of credit of such interest or share of profit to the account of the payee or at the time of payment thereof, whichever is earlier, income tax on such sum at the rate of-

(a) ten percent where the person receiving such interest or share of profit furnishes his [4][twelve-digit Taxpayer's Identification Number] (TIN) to the payer; or

(b) fifteen percent where the person receiving such interest or share of profit fails to furnish his [5][twelve-digit Taxpayer's Identification Number] (TIN) to the payer:

Provided that the rate of deduction of tax shall be ten percent in case of saving deposit of which balance does not exceed taka one lakh at any time in the year.

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[1] *Ins by F.A. 2000*
[2] *Subs. for "four percent" by F.A. 2010*
[3] *Sec. 53F ins. by F.A. 1990 and subs. by F.A. 2012*
[4] *Subs. by F.A.2014*
[5] *Subs. by F.A.2014*

(2) Nothing contained in this section shall apply-

(a) to interest or share of profit arising out of any deposit pension scheme sponsored by the Government or by a scheduled Bank with prior approval of the Government; or

(b) to such payee or class of payees as the Board may, by a general or special order, specify in this behalf.]

[1][**53FF. Collection of tax from persons engaged in real estate or land development business.-** Any person responsible for registering any document for transfer of any land or building or apartment, under the provision of Registration Act 1908 (XVI of 1908), shall not register the document unless tax is paid at the following rate by the transferer who is engaged in real estate or land development business,-

[2][(a) in case of building or apartment [3][, constructed for residential purposes,] situated-

[4][(i) at Gulshan Model Town, Banani, Baridhara, Motijeel Commercial Area and Dilkusha Commercial Area of Dhaka, taka [5][one thousand and six hundred] per square metre;

(ii) at Dhanmondi Residential Area, Defense Officers Housing Society (DOHS), Mahakhali, Lalmatia Housing Society, Uttara Model Town, Bashundhara Residential Area, Dhaka Cantonment Area, Karwan Bazar Commercial Area of Dhaka and Panchlaish Residential Area, Khulshi Resindential Area, Agrabad and Nasirabad of Chittagong, taka [6][one thousand and five hundred] per square metre;

(iii) in areas other than areas mentioned in sub-clauses (i) and (ii), taka [7][six hundred] per square metre;]

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[1] *Ins. by F.A. 2005*
[2] *Subs. by F.A. 2010*
[3] *Ins. by F.A. 2011*
[4] *Subs. for "sub-clause (i) and (ii)" by F.A. 2011*
[5] *omitted "two thousand" by F.A. 2013 and Ins. "one thousand and six hundred" by F.A. 2013*
[6] *Subs. for "one thousand and eight hundred" by F.A. 2013.*
[7] *Subs. for "eight hundred" by F.A. 2013*

[1][(aa) in case of building or apartment or any space thereof, constructed not for the residential purposes, situated-

(i) in areas mentioned under sub-clause (i) of clause

(a), taka [2][six thousand and five hundred] per square metre;

(ii) in areas mentioned under sub-clause (ii) of clause

(a), taka [3][five thousand] per square metre;

(iii) in areas mentioned under sub-clause (iii) of clause

(a), taka [4][one thousand and six hundred] per square metre;]

[5][(b) in case of land to which the document relates and on which stamp duty is chargeable under the Stamp Act, 1899 (Act No. II of 1899) at the rate of-

(i) five percent for Dhaka, Gazipur, Narayanganj, Munshiganj, Manikganj, Narsingdi and Chittagong districts;

(ii) three percent for any other district.]

53G. Deduction at source from insurance commission.- Any person responsible for paying to a resident any sum by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax on such sum at the rate of [6][five percent].

[7] *[(Proviso)***]*

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[1] *Ins. by F.A. 2011*
[2] *Subs. for "six thousand" by F.A. 2013*
[3] *Subs. for "six thousand " by F.A. 2013.*
[4] *Subs. for "two thousand" by F.A. 2013*
[5] *Subs. by F.A. 2009 and re-subs. by F.A. 2012*
[6] *Subs. for "three per cent" by F.A. 2010*
[7] *Omitted (proviso)by F.A 2008*

[1][**53GG. Deduction at source from fees, etc. of surveyors of general insurance company.-** A person responsible for paying to a resident any sum by way of remuneration or fees for conducting any survey regarding settlement of claim of an insurance shall, at the time of payment, deduct income-tax on such sum at the rate of [2][fifteen percent.]]

[3]**[(53GGG.)***]**

[4]**[53H. Collection of tax on transfer, etc. of property.-** (1) Any registering officer responsible for registering any document of a person under the provisions of clause (b), (c) or (e) of sub-section (1) of section 17 of the Registration Act, 1908 (XVI of 1908) shall not register any document unless tax is paid at such rate as may be prescribed in relation to the property to which the document relates and on which stamp-duty is chargeable under Stamp Act, 1899 (II of 1899) by the person whose right, title or interest is sought to be transferred, assigned, limited or extinguished thereby, at the time of registration of such document:

Provided that the rate of tax shall not exceed taka ten lakh and eighty thousand per katha (1.65 decimal) for land, taka six hundred per square meter for any structure, building, flat, apartment or floor space on the land, if any, or four per cent of the deed value, whichever is higher.

(2) Nothing in this section shall apply to a document relating to:

(a) sale by a bank or any financial institution as a mortgagee empowered to sell;

(b) mortgage of any property to any bank or any financial institution against any loan;

Explanation.-For the purpose of this sub-section, "financial institution" shall mean the Bangladesh House Building Finance Corporation or the Bangladesh Development Bank Ltd.]

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[1] Ins by F.A. 2000

[2] Subs for seven and half per cent by F.A 2010

[3] Ins by F. A. 2006 and subsequently omitted by F. O 2007

[4] Subs. by F.A. 2014

[1][**53HH. Collection of tax from lease of property.-** Any registering officer responsible for registering under the Registration Act, 1908 (XVI of 1908) any document in relation to any lease of immovable property for not less than ten years from any authority formed or established under any law shall not register such document unless tax is paid at a rate of four per cent by the lessor on the lease amount of such property.

Explanation.- For the purpose of this section, "any authority" shall mean Rajdhani Unnayan Kartripakkha (RAJUK), Chittagong Development Authority (CDA), Rajshahi Development Authority (RDA), Khulna Development Authority (KDA) or National Housing Authority].

[2] [**53I. Deduction at source from interest on deposit of Post Office Savings Bank Account.-** Any person responsible for paying any amount on account of interest of Post Office Savings Bank Account shall deduct, at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier, tax on such amount at the rate of ten percent:

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1 Ins. new section by F.A. 2014,
2 Ins new section by F. O. 2008

[1]*[(Proviso)***]*

Provided [2][***]that nothing contained in this section shall apply to such payee or class of payees as the Board may, by a general or special order, specify in this behalf.

53J. Deduction at source from rental value of vacant land or plant or machinery.- The Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorised by any Act, Ordinance, Order or Instrument having the force of law in Bangladesh or any company as defined in clause (20) of section (2) or any banking company or any insurance company or any co-operative bank established by or under any law for the time being in force or any non-government organization registered with NGO Affairs Bureau or any university or medical college or dental college or engineering college responsible for making any payment on account of rental value of vacant land or plant and/or machinery, shall deduct tax in advance at the time of such payment [3][or credit of such payment to the account of the payee] at the rate [4][of five percent].

53K. Deduction of tax from advertising bill of newspaper or magazine or private television channel [5][or private radio station [6][, etc.]- The Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorized by any Act, Ordinance, Order or any other Instrument having the force of law in Bangladesh or any company as defined in clause (20) of section (2) or any banking company or any insurance company or any co-operative bank established by or under any law for the time being in force or any non-government organization registered with NGO Affairs Bureau or any university or medical college or dental college or engineering college responsible for making any payment to newspaper or magazine or private television channel or [7][private radio station or any web site on account of advertisement of purchasing airtime of private television channel or radio station or such web site] shall deduct tax in advance at the time of such payment at the rate of three percent.

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[1] *Omitted by F.A. 2010*
[2] *Omitted by F.A. 2010*
[3] *Ins. by F.A. 2011*
[4] *Subs. for "prescribed by the Board" by F.A. 2012*
[5] *Ins. by F.A. 2012*
[6] *Ins. by F.A. 2014*
[7] *Subs. by F.A. 2014*

[1][(53L)*]**

[2]**[53M. Collection of tax from transfer of securities or mutual fund units by sponsor shareholders of a company etc.-** The Securities & Exchange Commission or Stock Exchange, as the case may be, at the time of transfer or declaration of transfer or according consent to transfer of securities or mutual fund units of a sponsor shareholder or director or placement holder of a company or sponsor or placement holder of a mutual fund listed with a stock Exchange shall collect tax at the rate of five percent on the difference between transfer value and cost of acquisition of the securities or mutual fund units.

Explanation.—For the purpose of this section-

(1) 'transfer' includes transfer under a gift, bequest, will or an irrevocable trust;

(2) 'transfer value' of a security or a mutual fund units shall be deemed to be the closing price of securities or mutual fund units prevailing on the day consent accorded by the Securities and Exchange Commission or the Stock Exchange, as the case may be, or where such securities or mutual fund units were not traded on the day such consent was accorded, the closing price of the day when such securities or mutual fund units were last traded.]

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[1] Ins. new sections 53L by F.A. 2010 and omitted by F.A. 2013
[1] Ins. new sections 53M by F.A. 2010

[1][**53N. Collection of tax from transfer of share of shareholder of Stock Exchanges.-** (1) The Principal Officer of a stock exchange shall deduct tax at the rate of fifteen per cent on any profits and gains arising from the transfer of share of a shareholder of stock exchange established under "এক্সচেঞ্জেস ডিমিউচ্যুয়ালাইজেশন আইন, ২০১৩ (২০১৩ সনের ১৫ নং আইন)" [Exchanges Demutualisation Act, 2013 (Act No. 15 of 2013)] at the time of transfer or declaration of transfer or according consent to transfer of such share, whichever is earlier.

(2) For the purpose of the computation of profits and gains of share under sub-section (1), the cost of acquisition of such share shall be the cost of acquisition incurred before "এক্সচেঞ্জেস ডিমিউচ্যুয়ালাইজেশন আইন, ২০১৩ (২০১৩ সনের ১৫ নং আইন)" [Exchanges Demutualisation Act, 2013 (Act No. 15 of 2013)] came into force.

53O. Deduction of tax from gains of securities traded in the Stock Exchanges.- (1) The Principal Officer of a company holding Trading Right Entitlement Certificate (TREC) under "এক্সচেঞ্জেস ডিমিউচ্যুয়ালাইজেশন আইন, ২০১৩, (২০১৩ সনের ১৫ নং আইন)" of any stock exchange dealing in shares or securities listed with such stock exchange or a bank or merchant bank or financial institution maintaining account of any investor of shares or securities shall deduct tax at the rate of ten percent of the realised gains derived by any company, as defined in clause (20) of section 2 of this Ordinance, or firm before closing of a financial year.

(2) For the purpose of calculation of the realised gain of a share or security under sub-section (1), proportionate average cost of such share or security including all commissions, fees or interest of any loan or advance paid or charged in relation to the transfer of share or security shall be deducted from the sale value of such shares or securities.]

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[1] *Ins. new sections 53N and 53O by F.A. 2014*

[1][**54. Deduction of tax from dividends.-** (1) The principal officer of a company registered in Bangladesh, or of any other company, shall, subject to the provisions of sub-section (2), at the time of paying any dividend to a shareholder, deduct tax on the amount of such dividend, in the case of-

(a) [2][a non-resident other than non-resident Bangladeshi],-

(i) if the shareholder is a company, at the rate applicable to a company ;

(ii) if the shareholder is a person other than a company, at the maximum rate ;

(b) [3][a resident or a non-resident Bangladeshi],-

(i) if the shareholder is a company, at the rate applicable to a company ;

(ii) if the shareholder is a person other than a company, [4][at the rate of ten per cent where the person receiving such dividend furnishes his twelve-digit Taxpayer's Identification Number (TIN) to the payer or fifteen per cent where the person receiving such dividend fails to furnish his twelve-digit Taxpayer's Identification Number (TIN) to the payer.]

[5][(2) Where, the Deputy Commissioner of Taxes, on an application made in this behalf, issues a certificate to a non-resident share holder, not being a company, is liable to tax at the rate less than the maximum rate, the payment of the dividend to the non resident share holder shall be made without any deduction of tax or at a rate less than the maximum rate specified in sub-section (1), as the case may be.]

[6]*[(Proviso)***]*

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[1] *Ins. by F.A. 1991*
[2] *Subs. for "a non-resident" by F.O. 2008*
[3] *Subs. for "a resident" by F.O. 2008*
[4] *Subs by F.A.2014*
[5] *Subs. by F.A. 2005*
[6] *Subs. by F.A. 2003 subsequently omitted by F.A. 2005*

55. Deduction from income from lottery, etc.- The person responsible for paying any amount on account of winnings referred to in section 19(13) shall, at the time of making such payment, deduct tax [1][payable on the amount at the rate of twenty per cent.]

Explanation.- For the purposes of this section, the expression "any amount" means the value of any goods or assets where the payment on account of such winnings is made not in the form of cash but in the form of goods or other assets.

56. Deduction from income of non-residents.- (1) Subject to the provisions of sub-section (2), any person responsible for making payment to a non-resident of any amount which constitutes income of such non-resident chargeable to tax under this Ordinance shall, unless such person is himself liable to pay tax thereon as agent, at the time of making such payment, deduct tax on the amount so payable -

(a) where the payee is a company, at the rate applicable to a company

[2][(b) where the payee is a person other than a company and not being a non-resident Bangladeshi, at the maximum rate;

(c) where the payee is a non-resident Bangladeshi, at the rate applicable for a resident.]

(2) Where, [3][the National Board of Revenue], on an application made in this behalf, gives a certificate that, to the best of [4][its belief], the non-resident will not be liable to pay any tax under this Ordinance, or will be liable to pay tax at a rate less than the maximum rate, payment referred to in sub-section (1) shall be made without any deduction, or, as the case may be, with deduction at the lesser rate specified in the certificate.

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[1] Subs. for the words "payable on the amount at the rates specified in paragraph 3(b) of the Second Schedule" by F.A. 1994

[2] Subs. clause (b) and ins. clause (c) by F.O. 2008

[3] Subs. for "the Deputy Commissioner of Taxes" by F.A. 2001

[4] Subs. for "his belief" by F.A. 2001

57. Consequences of failure to deduct, etc.- (1) Where a person required by or under the provisions of this Chapter to deduct, collect or pay to the credit of the Government tax, and, in the cases mentioned in section 54, the principal officer and the company of which he is the principal officer, fails to so deduct, collect or pay, or having deducted or collected, fails to pay the tax in accordance with the provisions of this Chapter, he or it shall-

(a) without prejudice to any other consequences to which he or it may be liable, be deemed to be an assessee in default in respect of the tax ; and

(b) in addition to such tax, pay an amount at the rate of two percent per month of such tax for the period commencing on the date following the expiry of the time within which it is to be paid under section 59 and ending on the date of the actual payment of the tax.

[1][(2) Where the Deputy Commissioner of Taxes in the course of any proceedings under this Ordinance finds any person, required by or under the provisions of this chapter to deduct, collect or pay to the credit of the Government tax, has failed to deduct, collect or pay the tax in accordance with the provisions of this chapter, shall, notwithstanding the provisions of section 137, take necessary action for realisation of such tax alongwith the additional amount payable under clause (b) of sub-section (1) from the person deemed to be an assessee in default under clause (a) of that sub-section.]

58. Certificate of deduction, etc., of tax.- Every person who deducts or collects tax as required by the provisions of this Chapter shall, at the time of making any payment in relation to which tax has been deducted or collected, furnish to the person to or from whom such payment or collection has been made, a certificate to the effect that the tax has been deducted or collected specifying therein-

(a) the amount deducted or collected ;

(b) the rate at which deduction or collection has been made ; and

(c) such other particulars as may be prescribed.

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[1]*Ins. by F.A. 1995 and substituted by F.O. 2008*

59. Payment to Government of tax deducted.- All sums deducted or collected as tax under the provisions of this Chapter shall be paid within the prescribed time by the person making the deduction or collection to the credit of the Government or as the Board may direct.

60. Unauthorized deduction prohibited.- Save as provided in this Ordinance, no person shall charge, withhold, deduct or collect any sum, directly or indirectly, as tax, and, where any sum is so charged, withheld, deducted or collected, it shall be paid in the manner provided in section 59.

61. Power to levy tax without prejudice to other mode of recovery.- The power to levy tax by deduction or collection under this Chapter shall be without prejudice to any other mode of recovery.

62. Credit of tax deducted or collected at source.- Any deduction or collection of tax made and paid to the account of the Government in accordance with the provisions of this Chapter shall be treated as a payment of tax on behalf of the person from whose income the deduction or collection was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him therefor on the production of the certificate furnished under section 58 in the assessment, if any, made for the following year under this Ordinance:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Ordinance, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund:

Provided further that where such person or owner is a person whose income is included under the provisions of section 43 (4) or (5) or section 104 or 105 or 106 in the total income of another person, such other person shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year.

[1]*[(Proviso)***]*

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[1] *Ins. by F.A. 1992 subsequently omitted by F.A. 1993*

[1]**[(62A.)***]**

63. Payment of tax where no deduction is made.- The tax under this Ordinance shall be payable by the assessee direct -

(a) in any case where tax has not been deducted or collected as required by, and in accordance with, the provisions of this Chapter ;

(b) in any case where the amount deducted or collected is found, after regular assessment, to be less than the tax due from the assessee, to the extent of deficiency ; and

(c) in the case of income in respect of which no provision has been made for deduction or collection of tax under the provisions of this Chapter.

64. Advance payment of tax.- [2][(1) Except as provided in sub-section (2), tax shall be payable by an assessee during each financial year by way of advance payment of tax, hereinafter referred to as "advance tax", in accordance with the provisions hereafter made in this Chapter if the total income of the assessee for the latest income year in respect of which he has been assessed by way of regular assessment, or has been provisionally assessed under this Ordinance, or the Income-tax Act, 1922 (XI of 1922), [3][exceeds [4]{four lakh taka}];]

(2) Nothing in sub-section (1) shall apply to any income classifiable under the heads "Agricultural income" and "Capital gains" [5][excluding gain from transfer of share of a company listed with a stock exchange].

65. Computation of advance tax.- (1) The amount of advance tax payable by an assessee in a financial year shall be the amount equal to the tax payable on his total income of the latest income year as assessed on regular basis or provisionally, as the case may be, as reduced by the amount of tax required to be deducted or collected at source in accordance with the preceding provisions of this Chapter.

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[1] *Ins. by F.A. 2009 subsequently omitted by F.A. 2011*
[2] *Subs. by F.A. 1993*
[3] *Subs. for "three lakh taka" by F.A. 2010*
[4] *Subs. for "two lakh taka" by F.O. 2007*
[5] *Ins. by F.A. 2010*

(2) The tax payable under sub-section (1) shall be calculated at the rates in force in respect of the financial year referred to therein.

66. Instalments of advance tax.- Advance tax shall be payable in four equal installments on the fifteenth day of September, December, March and June of the financial year for which the tax is payable:

[1]*[Provided that, if before the fifteenth day of May of the year, an assessment of the assessee is completed in respect of an income year, later than that on the basis of which the tax was computed under section 65, the assessee shall pay in one instalment on the specified date or in equal instalments on the specified dates, if more than one falling after the date of the said assessment, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original computation].*

67. Estimate of advance tax.- (1) Where, an assessee who is required to pay advance tax under section 64 estimates, at any time before the last instalment is due, that the tax payable by him for the relevant assessment year is likely to be less than the amount of tax as computed under section 65, he may, after giving to the Deputy Commissioner of Taxes an estimate of the tax payable by him, pay such estimated amount of advance tax, as reduced by the amount, if any, already paid, in equal instalments on the due dates of payment under section 66.

(2) The assessee may furnish a revised estimate of such amount at any time before any of such instalments become payable and may thereby adjust any excess or deficiency, by reference to the amount already paid by him under this section, in any subsequent instalment or instalments payable in such financial year.

68. Advance payment of tax by new assessees.- Any person who has not previously been assessed by way of regular assessment under this Ordinance or the Income-tax Act, 1922 (XI of 1922), shall before the fifteenth day of June in each financial year, if his total income, subject to section 64 (2), of the period which would be the income year

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[1]*Ins. by F.O. 1985*

for the immediately following assessment year is likely to exceed [1][four lakh taka], send to the Deputy Commissioner of Taxes an estimate of his total income and advance tax payable by him calculated in the manner laid down in section 65 and shall pay such amount on such dates specified in section 66 as have not expired by instalments which may be revised according to section 67(2).

69. Failure to pay instalments of advance tax.- Where, an assessee who is required to pay advance tax fails to pay any instalment of such tax, as originally computed or, as the case may be, estimated, on the due date, he shall be deemed to be an assessee in default in respect of such instalment.

70. Levy of interest for failure to pay advance tax.- Where, in respect of an assessee who is required to pay advance tax, it is found in the course of regular assessment that advance tax has not been paid in accordance with the provisions of this Chapter, there shall be added, without prejudice to the consequences of the assessee being in default under section 69, to the tax as determined on the basis of such assessment, simple interest thereon calculated at the rate and for the period specified in section 73.

71. Credit of advance tax.- Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax, shall be treated as a payment of tax in respect of the income of the period which would be the income year for an assessment for the year next following the year in which it was payable and shall be given credit for in the assessment of tax payable by the assessee.

72. Interest payable by Government on excess payment of advance tax.- (1) The Government shall pay simple interest at [2][ten per cent.] per annum on the amount by which the aggregate sum of advance tax paid during a financial year exceeds the amount of tax payable by him as determined on regular assessment.

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[1] *Subs for "Three lakh taka" by F.A. 2010*
[2] *Subs. for "twelve per cent" by F.A. 1994*

(2) The period for which interest under sub-section (1) shall be payable shall be the period from the [1][first day of July of the year of assessment] to the date of regular assessment in respect of the income of that year or a period of two years from the said first day of July, whichever is shorter.

73. Interest payable by the assessee on deficiency in payment of advance tax.- (1) Where, in any financial year, an assessee has paid advance tax on the basis of his own estimate and the advance tax so paid together with the tax deducted at source, if any, under this Chapter is less than seventy-five per cent. of the amount of tax payable by him as determined on regular assessment, the assessee shall pay, in addition to the balance of tax payable by him, simple interest at ten per cent. per annum on the amount by which the tax so paid and deducted falls short of the [2][seventy-five per cent. of the assessed tax].

(2) The period for which interest under sub-section (1) shall be payable shall be the period from the [3][first day of April] of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said [4][first day of April], whichever is shorter.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where-

(a) tax is paid under section 74, or

(b) provisional assessment has been made under section 81 but regular assessment has not been made,

the simple interest shall be calculated in accordance with the following provisions-

(i) up to the date on which tax under-section 74 or as provisionally assessed, was paid ;

(ii) thereafter, such simple interest shall be calculated on the amount by which the tax as so paid falls short of [5][the said seventy five percent of the assessed tax].

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[1] *Subs. for "first day of July of the year in which the advance tax was paid" by F.A. 1998*
[2] *Subs. for the words "assessed tax" by F.A. 1992*
[3] *Subs. for "first day of July" by F.A. 2010*
[4] *Subs for "first day of July" by F.A. 2010*
[5] *Subs. for "the said assessed tax" by F.A. 2011*

(4) Where, as a result of appeal, revision or reference, the amount on which interest was payable under sub-section (1) has been reduced, the amount of interest payable shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of tax that is refundable.

74. Payment of tax on the basis of return.- [1]**[**(1) Every person who is required to file a return under section 75, 77, 78, 89(2), 91(3) or 93(1) shall, on or before the date on which he files the return, pay the amount of tax payable by him on the basis of such return or as per provision of section 16CCC, which ever is higher, as reduced by the amount of any tax deducted from his income or paid by him in accordance with the provisions of this Chapter.]

(2) Any amount paid under sub-section (1) shall be deemed to have been paid towards the sum as may be determined to be payable by him after regular assessment.

(3) A person who, without reasonable cause, fails to pay the tax as required by sub-section (1) shall be deemed to be an assessee in default.

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[1] *Subs. by F. A. 2014*

CHAPTER VIII
RETURN AND STATEMENT

75. Return of income.- (1) Save as provided in section 76, every person shall file or cause to be filed, with the Deputy Commissioner of Taxes, a return of his income or the income of any other person in respect of which he is assessable to tax under this Ordinance,-

(a) if his total income during the income year exceeded the maximum amount which is not chargeable to tax under this Ordinance, or

(b) if he was assessed to tax for any one of the [1][three years] immediately preceding that income year:

[2][Provided that any non-resident Bangladeshi may file his return of income along with bank draft equivalent to the tax liability, if any, on the basis of such return, to his nearest Bangladesh mission and the mission will issue a receipt of such return with official seal and send the return to the Board.]

[3][(1A) Where a person is not required to file a return of income under sub-section (1), he shall file a return of his income during the income year, on or before the date specified in clause (c) of sub-section (2), if he-

(a) resides within the limits of a city corporation or a paurashava or a divisional headquarters or district headquarters and who at any time during the relevant income year fulfills any of the following conditions, namely:-

[4][(i) ***]

(ii) owns a motor car;

[5][(iii) ***]

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[1] Subs. for "five years" by F.A. 1996
[2] Ins. by F.A. 1999
[3] Subs. by F.A. 2003
4 Omitted by F.A.2014
5 Omitted by F.A.2014

(iv) owns a membership of a club registered under মূল্য সংযোজন কর আইন, ১৯৯১ (১৯৯১ সনের ২২নং আইন).

(b) runs any business or profession having trade license from a city corporation, a paurashava or a union parishad, and operates a bank account;

(c) has registered with a recognized professional body as a doctor, dentist, lawyer, income tax practitioner , chartered accountant, cost and management accountant , engineer, architect or surveyor or any other similar profession;

(d) member of a chamber of commerce and industries or a trade association;

(e) is a candidate for an office of any [1][***] paurashava, city corporation, or a Member of Parliament;

(f) participates in a tender floated by the government, semi-government, autonomous body or a local authority;

[2][(g)***]

[3][(h) any non-government organisation registered with NGO Affairs Bureau.]

Explanation.- In this sub-section, the term "motor car" means a motor car as defined in clause (25) of section 2 of the Motor Vehicles Ordinance 1983 (LV of 1983) and includes a jeep and a micro-bus.]

[4][(1B) Notwithstanding anything contained in sub-section (1) and (1A), every company shall file a return of its income or the income of any other person for whom the company is assessable, on or before the date specified in clause (c) of sub-section (2);]

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[1]*Omitted. by F.A. 2014*
[2] *Omitted. by F.A. 2014*
[3] *Ins. clause (h) by F.A. 2011*
[4] *Ins. by F.A. 2001*

(2) The return under sub-section [1][(1), (1A) and (1B) shall be-

(a) furnished in the prescribed form setting forth therein such particulars and information as may be required thereby including the total income of the assessee;

(b) signed and verified-

(i) in the case of an individual, by the individual himself ; where the individual is absent from Bangladesh, by the individual concerned or by some person duly authorised by him in this behalf; and when the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf ;

(ii) in the case of Hindu undivided family, by the Karta, and, where the Karta is absent from Bangladesh or is mentally incapacitated from attending to his affairs, by any other adult member of such family ;

(iii) in the case of a company or local authority, by the principal officer thereof ;

(iv) in the case of a firm, by any partner thereof, not being a minor;

(v) in the case of any other association, by any member of the association or the principal officer thereof ; and

(vi) in the case of any other person, by that person or by some person competent to act on his behalf;

(c) filed, unless the date is extended under sub-section (3),-

(i) in the case of a company, by the fifteenth day of July next following the income year or, where the fifteenth day of July falls before the expiry of six months from the end of the income year, before the expiry of such six months; and

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[1] *Subs. for "(1) and (1A)" by F.A. 2001*

[1][(ii) in all other cases, by the thirtieth day of September next following the income year:

Provided that an individual being Government official engaged in higher education on deputation or employed under lien outside Bangladesh shall file return or returns for the period of such deputation or lien, at a time, within three months from the date of his return to Bangladesh; and]

[2][(d) accompanied by-

[3][(i) in the case of individual, a statement in the prescribed form and verified in the prescribed manner giving particulars of his life style] [4][:

Provided that an individual, not being a shareholder director of a company, having income from salary or income not exceeding three lakh taka from business or profession may opt not to submit such statement;]

(ii) in the case of an individual [5][***], a statement in the prescribed form and verified in the prescribed manner giving particulars specified in section 80 in respect of himself, his spouse, his minor children and dependants;

[6][(iii) In the case of a company, an audited statement of accounts and where the profit or loss of a business is different from profit or loss disclosed in the return of income in accordance with the provision of this Ordinance, a computation sheet showing how the income shown in the return is arrived at on the basis of profit and loss account.]]

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[1] *Subs. by F.O. 2008*
[2] *Subs. by F.A. 1997, re-subs. by F.A. 1999 again subs. by F.A. 2002*
[3] *Subs. by F.A. 2004*
[4] *Subs. "clon" for "semi-colon" and inserted Proviso by F.A. 2013*
[5] *Omitted by F.A. 2005*
[6] *Subs. by F.A. 2012*

(3) The last date for the submission of return as specified in sub-section (2) may be extended by the Deputy Commissioner of Taxes in respect of any person or class of persons:

[1]*[Provided that the Deputy Commissioner of Taxes may extend the date upto three months from the date so specified and he may further extend the date upto three months with the approval of the Inspecting Joint Commissioner* [2]*[.*

*(Proviso)***]*

[3]**[75A. Return of withholding tax.-** (1) Every person, being a company, shall file or cause to be filed, with the Deputy Commissioner of Taxes where he is being assessed, a return of withholding tax collected or deducted as per provisions of Chapter VII of this Ordinance.

(2) The return under sub-section (1) shall be-

(a) furnished in the prescribed form setting forth therein such particulars and information as may be required thereby;

(b) signed and verified by the principal officer thereof;

(c) filed quarterly, unless the date is extended under sub-section (3), by the fifteenth day of October, January, April and July of the financial year for which the tax is deducted or collected;

(d) accompanied by a statement of deduction or collection of tax along with copy of treasury challans or payment orders.

(3) The last date for the submission of return as specified in sub-section (2) may be extended by the Deputy Commissioner of Taxes upto fifteen days from the date so specified.

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[1]*Subs. by F.A. 2002*
[2]*Subs. "full-stop" for "colon" and omitted proviso by F.A. 2010*
[3]*Ins. new sections 75A, 75B and 75C by F.A. 2011*

[1][(4) Where the Deputy Commissioner of Taxes, after examining the return submitted under this section, finds any person, required by or under the provisions of chapter VII of this Ordinance to deduct, collect or pay to the credit of the Government tax, has failed so to deduct, collect or pay, shall deem such person an assessee in default under sub-section (1) of section 57.]

75B. Obligation to furnish Annual Information Return.- (1) Government may, by notification in the official gazette, require any person or group of persons responsible for registering or maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, to furnish an Annual Information Return, in respect of such specified financial transaction.

(2) The Annual Information Return referred to in sub-section (1) shall be furnished to the Board or any other income tax authority or agency, in such form, manner and within such time as may be prescribed.

75C. Concurrent jurisdiction.- Board may, by general or a special order in writing, direct that in respect of all or any proceedings relating to receiving of return of income and issuance of acknowledgement thereof in accordance with the provisions of section 75, 77, 78, 89(2), 91(3) or 93(1), the powers and functions of the Deputy Commissioner of Taxes shall be concurrently exercised by such other authority as may be specified by the Board.]

76. Certificate in place of return.- Where the entire total income of an assessee during the income year consisted of income classifiable under the head "Salaries" or any other income from which the full amount of tax payable by him has been deducted, such assessee may, instead of filing a return under section 75, file a certificate in such form as may be prescribed accompanied, where applicable, by a statement referred to in section 75 (2) (d) ; and the certificate and statement so filed shall be deemed for all purposes of this Ordinance to be a return and statement filed under that section.

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[1] *Ins. by F.A. 2012*

77. Notice for filing return.- [1][(1) The Deputy Commissioner of Taxes may, at any time after expiry of the date specified in section 75, by a notice in writing, require-

(a) any person, other than a company, to file a return of his total income as provided in that section if, in the opinion of the Deputy Commissioner of Taxes the total income of such person was, during the income year, of such amount as to render liable to tax;

(b) any company to file a return of its total income, if it is not filed.]

(2) The return under sub-section (1) shall be filed within such period, not being less than [2][twenty-one days], as may be specified in the notice or within such extended period as the Deputy Commissioner of Taxes may allow.

78. Filing of revised return.- Any person who has not filed a return as required by section 75 or 77 or who, having filed return, discovers any omission or incorrect statement therein, may, without prejudice to any liability which he may have incurred on this account, file a return or a revised return, as the case may be, at any time before the assessment is made.

79. Production of accounts and documents.- The Deputy Commissioner of Taxes may, by notice in writing, require an assessee who has filed a return under section 75, or to whom a notice has been issued under section 77, to produce or cause to be produced [3][such accounts, statements and documents] on such date as may be specified in the notice, such accounts, statements and documents including those relating to any period, not being earlier than three years prior to the income year, as he may consider necessary for the purpose of making an assessment under this Ordinance.

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[1] *Subs. by F.A. 2001*
[2] *Subs. for "thirty days" by F.A. 1992*
[3] *Ins. by F.A. 2002*

80. [1][Statements of assets, liabilities and life style].- (1) The Deputy Commissioner of Taxes may, by notice in writing, require an assessee to file by the date specified in the notice [2][statements] giving particulars in respect of the following unless they have already been given in or with return filed under section 75, 77 or 78, or with a certificate filed under section 76 namely :-

(a) the total assets, liabilities and expenses of the assessee as on the date or dates specified in the notice ;

(b) the total assets, liabilities and expenses of the spouse, minor children and dependents of the assessee as on the date or dates so specified ; and

(c) any assets transferred by the assessee to any person during the period or periods so specified, and the consideration therefor [3][;

(d) particulars of life style of the assessee.]

(2) The [4][statements] to be filed under sub-section (1) shall be prepared in such form and verified in such manner as may be prescribed.

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[1] Subs. for "Statement of assets and liabilities" by F.A. 2005
[2] Subs. for "Statement" by F.A. 2005
[3] Subs. for "full-stop" and clause (d) ins. by F.A. 2005
[4] Subs. for "Statement" by F.A. 2005

CHAPTER IX
ASSESSMENT

81. Provisional assessment.- (1) The Deputy Commissioner of Taxes may, at any time after the first day of July of the year for which the assessment is to be made, proceed to make, in a summary manner, a provisional assessment of the tax payable by the assessee on the basis of the return and the accounts and documents, if any, accompanying it and where no return has been filed, on the basis of the last assessment including an assessment under this section.

(2) In making a provisional assessment under this section, the Deputy Commissioner of Taxes shall-

(a) rectify any arithmetical errors in the return, accounts and documents;

(b) allow, on the basis of the information available from the return, accounts and documents, such allowances as are admissible under the Third Schedule and any loss carried forward under section 38 or 39 or 41.

(3) For the purposes of payment and recovery, the tax as determined to be payable upon provisional assessment shall have effect as if it were determined upon regular assessment.

(4) The tax paid or deemed to have been paid under Chapter VII, in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment.

(5) Any amount paid or deemed to have been paid towards provisional assessment under this section shall be deemed to have been paid towards regular assessment ; and the amount paid or deemed to have been paid towards provisional assessment in excess of the amount found payable after regular assessment shall be refunded to the assessee.

(6) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on merit of any issue which may arise in the course of regular assessment.

(7) There shall be no right of appeal against a provisional assessment under this section.

[1]**[82. Assessment on correct return.-** Where a return or a revised return has been filed under Chapter VIII and the Deputy Commissioner of Taxes is satisfied, without requiring the presence of the assessee or the production of any evidence, that the return is correct and complete, he shall assess the total income of the assessee and determine the tax payable by him on the basis of such return and communicate the assessment order to the assessee within thirty days next following :

Provided that -

(a) such return shall be filed on or before the date specified in clause (c) of sub-section (2) of section 75;

(b) the amount of tax payable shall be paid on or before the date on which the return is filed;[2] *[***]*

(c) such return does not show any loss or lesser income than the last assessed income, or assessment on the basis of such return does not result in refund [3]*[; and*

(d) such return shall mention twelve-digit Taxpayer's Identification Number.]

[4]**[82A. Assessment under simplified procedure.-** Where, an assessee, other than a public limited company as defined in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), who has previously been assessed for any assessment year ended on or before the thirtieth day of June, 1995, files a return showing income for the income year relevant to the assessment year commencing on or after the first day of July, 1995 and ending on or before the thirtieth day of June, 1997 and the income shown in such return is higher by not less than ten per cent. over the last assessed income and has also increased by at least a further sum of ten per cent. for each preceeding assessment year in respect of which the assessment is pending, the return filed by the assessee shall be deemed to be correct and complete, and the Deputy Commissioner of Taxes shall assess the total income of the assessee on the basis of such return and determine the tax payable by him [5][on the basis of such assessment, and communicate the assessment order to the assessee within thirty days next following],

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[1] *Subs. Section 82 by F.O. 2008*
[2] *Omitted by F.A.2014*
[3] *Subs by F.A.2014*
[4] *Ins. by F.A. 1995*
[5] *Subs. for the words "on the basis of such assessment" by F.A. 1996*

provided-
(a) he has, at the time of filing such return, made payment of the tax on the basis of the return, or taka twelve hundred, whichever is higher, and the assessment on the basis of such return shall not result in any refund; [1][***]

[2][(b) the net accretion of his wealth, if he is required to submit statement of assets and liabilities under section 75 (2) (d), along with his disclosed family expenses and taxes paid during the year, shall not exceed the income disclosed for the year and the income or receipt, if any, exempted from tax] [3][; and

(c) such return contains twelve-digit Taxpayer's Identification Number (TIN).]

[4][(82B.)*]**

[5][82BB. Universal Self Assessment.- (1) [6][Subject to sub-section (3), where an assessee, either manually or electronically,] furnishes a correct and complete return of income [7][***], the Deputy Commissioner of Taxes shall receive such return himself or cause to be received by any other official authorised by him and issue a receipt of such return [8][manually or electronically] and the said receipt shall be deemed to be an order of assessment for the assessment year for which the return is filed.

[9][(2) A return shall be taken to be completed, if -
(a) it is filed in accordance with provision of sub-section (2) or sub-section (3) of section 75;
(b) tax has been paid in accordance with provision of section 74; and
(c) twelve-digit Taxpayer's Identification Number (TIN) is mentioned in it.]

(3) Notwithstanding anything contained in sub-section (1) [10][***], the Board or any authority subordinate to the Board, if so authorised by the Board in this behalf, may select, in the manner to be determined by the Board,

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[1] omitted by F.A. 2014
[2] Subs. by F.A. 1996
[3] Ins. by F.A. 2014
[4] Subs. by F.A. 2003 and omitted by F.O. 2008
[5] Ins. by F.O. 2007
[6] Subs. for "where an assessee" by F.A. 2011
[7] Omitted by F.O. 2008
[8] Ins by F.A. 2011
[9] Subs. by F.A. 2014
[10] Omitted by F.A. 2011

[1][a number of these returns filed under sub-section (1)] and refer the returns so selected to the Deputy Commissioner of Taxes for the purpose of audit and the Deputy Commissioner of Taxes shall thereupon proceed, if so required, to make the assessment under section 83 or section 84, as the case may be [2][:

Provided that a return of income filed under this section shall not be selected for audit where such return shows at least twenty per cent higher income than the income assessed or shown in the return of the immediately preceding assessment year and such return-

(a) is accompanied by corroborative evidence in support of income exempted from tax;

(b) is accompanied by a copy of bank statement or account statement, as the case may be, in support of any sum or aggregate of sums of loan exceeding taka five lakh taken from any person during the income year;

(c) does not show receipt of gift during the year;

(d) does not show any income chargeable to tax at a rate reduced under section 44; or

(e) does not show or result any refund.]

[3]*[(Proviso)***]*

[4][(4) No question as to the source of investment made by a new assessee deriving income from business or profession shall be raised, if he shows income at least not less than twenty five percent of the capital invested in business or profession and pays tax on such income before filing of income.

[1] *Subs. for "of these returns filed under sub-section (1)" by F.O. 2008*
[2] *Ins. by F.A. 2014*
[3] *omitted proviso by F.A. 2012*
[4] *Ins. by F.A. 2009*

[1][(5) The initial capital investment of business or profession or any fraction of such initial capital shall not be transferred from that business or profession within the income year when the investment was made or within five years from the end of that income year.]]

[2][**82C. Tax on income of certain persons. -** (1) Subject to sub-sections (3), (4), (5), (6), (7), (8) and (9), notwithstanding anything contained in any other provisions of this Ordinance, tax deducted or collected at source in accordance with the provisions mentioned in sub-section (2) shall be deemed to be the final discharge of tax liability from that source.

(2) The provisions referred to in sub-section (1) shall be the following, namely-

[3][(a)the amount representing the payments on account of supply of goods or execution of contract [4][***] to which tax deductible under section 52;]

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[1]Subs. by F.A. 2012
[2] Subs. section 82C by F.A. 2011
[3] Subs. by F.A. 2012
[4] Omitted by F.A. 2014

(b) the amount representing the payment on account of royalty, fees for technical services for which tax is deductible under section 52A(2);

(c) commission from clearing and forwarding agency business for which tax is deductible under section 52AAA;

(d) the amount of the value of the banderols computed for the purpose of collection of tax on account of the manufacture of cigarettes under section 52B;

(e) the amount of compensation against acquisition of property under section 52C;

[1][(ee) the amount received by the rental power companies on account of sale of rental power under section 52N;]

[2][(eee) the amount received as interest from pensioners' savings certificate or wage earners development bond for which tax has been deducted under section 52D;]

(f) the amount of salaries of a foreign technician serving in a diamond cutting industry, for which tax is deductible under section 52O;

[2][(ff) the amount received by International Gateway (IGW) services operator or Interconnection Exchange (ICX) in respect of international phone call as mentioned in section 52R;]

(g) the amount as computed for the purpose of collection of tax under section 53 in respect of goods imported, not being goods imported by an industrial undertaking as raw materials for its own consumption;

(h) the amount received or receivable from shipping business of a resident on which tax is collectible under section 53AA;

(i) the amount received on account of export of manpower on which tax is deductible under section 53B;

(j) the amount received on account of export of certain items on which tax is deductible under section 53BB;

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[1] *Ins. by F.A. 2012*
[2] *Ins. by F.A. 2014*
[3] *Ins. by F.A. 2012*

(k) the amount received on account of transaction by a member of a stock exchange for which tax is collectible under section 53BBB ;

(l) the amount of auction purchase on which tax is collectible under section 53C;

(m) the amount received on account of courier business of a non-resident under section 53CC;

[1][(mm) the amount on account of export cash subsidy as mentioned in section 53DDD;]

(n) the amount received from persons engaged in real estate or land development business on which tax is collectible under section 53FF;

(o) the amount of remuneration or reward, whether by way of commission or otherwise payable to an insurance agent on which tax is deductible under section 53G;

(p) the amount representing the payment on account of survey by surveyor of a general insurance company on which tax is deductible under section 53GG;

(q) the amount of the value of the property as mentioned in section 53H for the purpose of collection of tax under that section;

[2][(r)***]

(s) income derived from transfer of securities or mutual fund units by sponsor shareholders of a company etc. under section 53M;

[3][(ss) income derived from transfer of share of Stock Exchange on which tax is deducted under section 53N;

(sss) income derived from transfer of share or securities traded in the stock exchange for which tax is deducted under section 53O;]

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[1] *Added by F. A. 2012*
[2] *Omitted sub-clause (r) by F.A. 2013*
[3] *Ins. by F.A. 2014*

(t) the amount on account of winnings referred to in section 19(13) on which tax is deductible under section 55:

[1]*[Provided that provisions of sub-section (1) shall not be applicable in the case of clause (a) of this sub-section with respect to-*

(a) a contractor of an oil company or a sub-contractor to the contractor of an oil company as may be prescribed;
(b) oil marketing companies and its dealer or agent excluding petrol pump station;
(c) any company engaged in oil refinery;
(d) any company engaged in gas transmission.]

(3) Tax deducted or collected at source from the sources mentioned in sub-section (2) shall not be adjusted against refund due for earlier year or years or refund due for the assessment year from any source other than those mentioned in sub-section (2).

(4) Income from the sources mentioned in sub-section (2) shall be determined on the basis of the tax deducted or collected at source and the rate or rates of tax applicable for the assessment year.

(5) Income computed in accordance with sub-section (4) shall not be set off with loss computed under any other source for the assessment year or with loss of earlier year or years.

(6) Any income shown or assessed in excess of the amount determined in sub-section (4) shall be liable to tax at the rate or rates applicable for the assessment year.

(7) Any amount not admissible as allowances under section 30 shall be added to the income as referred to in sub-section (4).

(8) Income referred to in sub-sections (6) and (7) shall be taxable at the rate or rates applicable for the year after determining income under sub-section (4).

(9) In addition to the tax mentioned in this section, in accordance with the provisions of the Finance Act, if any, the assessee shall pay surcharge.]

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[1] *Subs. by F.A. 2014*

[1]**[82D. Spot assessment.-** Notwithstanding anything contained in this Ordinance, where an assessee, not being a company, who has not previously been assessed under this Ordinance, carrying on any business or profession in any shopping centre or commercial market or having a small establishment, the Deputy Commissioner of Taxes may fix the tax payable by him in such manner and at such rate as may be prescribed and the receipt obtained for payment of such tax shall be deemed to be an order of assessment under section 82.]

[2]**[83. Assessment after hearing.-** (1) Where a return or revised return has been filed under Chapter VIII and the Deputy Commissioner of Taxes is not satisfied without requiring the presence of the person who filed the return or the production of evidence that the return is correct and complete, he shall serve on such person a notice requiring him, on a date to be therein specified, to appear before the Deputy Commissioner of Taxes, or to produce or cause to be produced before him or at his office, any evidence in support of the return.

(2) The Deputy Commissioner of Taxes shall, after hearing the person appearing, or considering the evidence produced in pursuance of the notice under sub-section (1) and also considering such other evidence, if any, as he may require on specified points, by an order in writing assess, within thirty days after the completion of the hearing or consideration, as the case may be, the total income of the assessee and determine the sum payable by him on the basis of such assessment, and communicate the order to the assessee within thirty days next following.]

[3]**[(83A.)*****

(83AA.)*]**

[4]**[83AAA. Assessment on the basis of report of a chartered accountant. -** (1) Where a return or revised return is filed under Chapter VIII by an assessee being a company and the Board has reasonable cause to believe that the return or revised return is incorrect or incomplete, the Board may appoint a registered chartered accountant to examine the accounts of that assessee.

(2) The chartered accountant appointed under sub-section (1) shall exercise the powers and functions of the Deputy Commissioner of Taxes as referred to in section 79 and clauses (a), (b), (c), (d) and (e) of section 113.

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[1] *Ins. by F.A. 1999*
[2] *Subs. by F.A. 1994 again subs. by F.A. 1998*
[3] *Ins. by F.A. 1990, subs. by F.A. 1999 and section 83A, 83AA omitted by F.O. 2008*
[4] *Ins. by F.A. 2000*

(3) The chartered accountant, after examination of the accounts of that assessee, shall submit a report in writing to the Board alongwith findings within a time as may be specified by the Board.

(4) On receipt of the report referred to in sub-section (3), the Board shall forthwith forward the report to the concerned Deputy Commissioner of Taxes for consideration.

(5) On receipt of the report under sub-section (4), the Deputy Commissioner of Taxes shall serve a notice upon the assessee under sub-section (1) of section 83.

(6) The Deputy Commissioner of Taxes shall, after hearing the person appearing and considering the evidences produced including the findings stated in the report received under sub-section (5) and also considering the other evidences, by an order in writing, assess within thirty days after the completion of hearing or consideration, as the case may be, the total income of an assessee and shall determine the sum payable by the assessee on the basis of such assessment, and communicate the said order to the assessee within thirty days from the date of such order.]

[1]**[84. Best judgment assessment.-** (1) Where any person fails -

(a) to file the return required by a notice under section 77 and has not filed a return or revised return under section 78 ; or

(b) to comply with the requirements of a notice under section 79 or 80 ; or

(c) to comply with the requirements of a notice under section 83(1);

the Deputy Commissioner of Taxes shall, by an order in writing, assess the total income of the assessee to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment; and in the case of firm, may refuse to register it or may cancel its registration if it is already registered, and communicate such order to the assessee within thirty days next following.

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[1] *Subs. by F.A. 2002*

(2) Where in the opinion of the Board a best judgment assessment made by a Deputy Commissioner of Taxes under sub-section (1) shows lack of proper evaluation of legal and factual aspects of the case which has resulted in an arbitrary and injudicious assessment, the action leading to such assessment made by the said Deputy Commissioner of Taxes shall be construed as misconduct.]

[1]**[(84A.)***]**

85. Special provisions regarding assessment of firms.- (1) Notwithstanding anything contained in this Ordinance, where the assessee is a firm and the total income of the firm has been assessed under sections 82, 83, or 84, as the case may be,-

[2][(a)***]

(b) in the case of [3][a firm], the tax payable by the firm shall be determined on the basis of the total income of the firm.

(2) Whenever any determination is made in accordance with the provisions of sub-section (1), the Deputy Commissioner of Taxes shall, by an order in writing, notify to the firm-

(a) the amount of tax payable by it, if any ;

(b) the amount of the total income on which the determination has been based; and

(c) the apportionment of the amount of income between the several partners.

86. Assessment in case of change in the constitution of a firm.- (1) Where, at the time of assessment of a firm, it is found that a change has occurred in the constitution of the firm, the assessment shall be made on the firm as constituted at the time of making the assessment :

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[1] *Ins. by F.A. 1990 omitted by F.A. 1997*
[2] *Omitted by F.A. 1995*
[3] *Subs. for "and unregistered firm" by F.A.1995*

Provided that-

(a) the income of the year shall, for the purpose of inclusion in the total income of the partners, be apportioned between the partners who, in such income year, were entitled to receive the same ; and

(b) when the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment.

(2) For the purposes of this section, there is a change in the constitution of a firm-

(a) where all the partners continue with a change in their respective shares or in the shares of some of them, or

(b) where one or more persons who were partners continue to be so with a change by cessation of one or more partners or addition of one or more new partners.

87. Assessment in case of constitution of new successor firm.- Where, at the time of assessment of a firm, it is found that a new firm has been constituted to succeed the firm to which the assessment relates and it cannot be covered by section 86, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 88 relating to assessment in case of succession to business.

88. Assessment in case of succession to business otherwise than on death.-(1) Where, a person, carrying on any business or profession (in this section, referred to as the predecessor), has been succeeded therein otherwise than on death by another person (in this section, referred to as the successor) in any income year, and the successor continues to carry on that business or profession,-

(a) the predecessor shall be assessed, in respect of the income of the income year in which the succession took place, for the period up to the date of succession, and

(b) the successor shall be assessed, in respect of the income of the income year, for the period after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), where the predecessor cannot be found, the assessment of the income year in which the succession took place up to the date of succession and of the income year or years preceding that year shall be made on the successor in the like manner and to the same extent as it would have been made on the predecessor ; and the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) Where any sum payable under this section in respect of the income of a business or profession cannot be recovered from the predecessor, the Deputy Commissioner of Taxes shall record a finding to that effect, and thereafter the sum payable by the predecessor shall be payable by, and recoverable from, the successor who shall be entitled to recover it from the predecessor.

89. Assessment in case of discontinued business.- (1) Without prejudice to the provision of section 87, where any business or profession is discontinued in any financial year, and assessment may be made in that year, notwithstanding anything contained in section 16, on the basis of the total income of the period between the end of the income year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income year.

(2) Any person discontinuing any business or profession in any financial year shall give to the Deputy Commissioner of Taxes a notice of such discontinuance within fifteen days thereof ; and such notice shall be accompanied by a return of total income in respect of the period between the end of the income year and the date of such discontinuance and that financial year shall be deemed to be the assessment year in respect of the income of the said period.

(3) Where, a person fails to give the notice required by sub-section (2), the Deputy Commissioner of Taxes may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income from the business or profession up to the date of its discontinuance.

(4) Where, an assessment is to be made under sub-section (1), the Deputy Commissioner of Taxes may serve-

(a) on the person whose income is to be assessed ;

(b) in the case of a firm, on the person who was a partner of the firm at the time of discontinuance of the business or profession ; and

(c) in the case of a company, on the principal officer of the company;

a notice to furnish within such time, not being less than seven days, a return of his total income giving such particulars and information as are required to be furnished with a return to be filed under section 75 along with such other particulars, records and documents as may be specified in the notice.

(5) The provisions of this Ordinance shall, so far as may be, apply to a notice under sub-section (4) for the purpose of assessment of tax as if it were a notice under section 77.

90. Assessment in case of partition of a Hindu undivided family.- (1) A Hindu family hitherto assessed as a Hindu undivided family shall be deemed, for the purposes of this Ordinance, to continue to be a Hindu undivided family except where, and in so far as, a finding of partition has been given under this section in respect of that family.

(2) Where, at the time of an assessment of a Hindu undivided family, it is claimed by any member thereof that a partition has taken place amongst the members of the family, the Deputy Commissioner of Taxes shall make an enquiry thereinto after giving notice to all the members of the family.

(3) On the completion of the enquiry, the Deputy Commission of Taxes shall record a finding as to whether there has been a partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) In the case of a finding under sub-section (3) that the partition of the undivided family took place after the expiry of the income year, the total income of the income year of the undivided family shall be assessed as if no partition has taken place ; and each member or group of members of the family shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income of the family so assessed.

(5) In the case of finding under sub-section (3) that the partition of the undivided family took place during the income year, the total income of the undivided family in respect of the period up to the date of partition shall be assessed as if no partition had taken place ; and each member or group of members of the family shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income of that period as so assessed.

(6) Notwithstanding anything contained in this section, if the Deputy Commissioner of Taxes finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, the tax shall be recoverable from every person who was a member of the family before the partition; and every such person shall be jointly and severally liable for tax on the income of the family so assessed.

(7) For the purposes of this section, the several liability of any member or group of members of a Hindu undivided family shall be computed according to the portion of the property of the undivided family allotted to him or it at the partition.

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition of a Hindu undivided family as they apply in relation to levy and collection of tax in respect of any such period.

91. Assessment in case of persons leaving Bangladesh.- (1) Where it appears to the Deputy Commissioner of Taxes that any person may leave Bangladesh during the current financial year or shortly after its expiry and that he has no intention of returning, an assessment may be made in that year, notwithstanding anything contained in section 16, on the basis of the total income of such person-

(a) if he has been previously assessed, for the period from the expiry of the last income year of which income has been assessed to the probable date of his departure from Bangladesh; and

(b) if he has not been previously assessed, of the entire period of his stay in Bangladesh up to the probable date of his departure there from.

(2) Assessment under sub-section (1) shall be made-

(a) in respect of each completed income year included in the period referred to in sub-section (1), at the rate at which tax would have been charged had it been fully assessed; and

(b) in respect of the period from the expiry of the last of the completed income years to the probable date of departure, at the rate in force for the financial year in which such assessment is made and that financial year shall be deemed to be the assessment year in respect of the income of the said period.

(3) For the purpose of making an assessment under this section, the Deputy Commissioner of Taxes may serve a notice upon the person concerned requiring him to file, within such time, not being less than seven days, as may be specified in the notice,-

(a) a return in the same form and verified in the same manner as a return under section 75 setting forth, along with such other particulars as may be required by the notice, his total income for each of the completed income years comprised in the relevant period referred to in sub-section (1); and

(b) an estimate of his total income for the period from the expiry of the last of such completed income year to the probable date of his departure from Bangladesh.

(4) All the provisions of this Ordinance shall, so far as may be, apply to the notice under sub-section (3) for purpose of assessment of tax as if it were a notice under section 77.

(5) Nothing in this section shall be deemed to authorise a Deputy Commissioner of Taxes to assess any income which has escaped assessment or has been under assessed or has been assessed at too low a rate or has been the subject of excessive relief under this Ordinance but in respect of which he is debarred from issuing a notice under section 93.

92. Assessment in case of income of a deceased person.- (1) Where a person dies, his legal representative shall be liable to pay any tax or other sum payable under this Ordinance which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased ; and the legal representative of the deceased shall, for the purposes of this Ordinance, be deemed to be an assessee:

Provided that before deeming the legal representative of the deceased to be an assessee, a notice to that effect shall be issued to him by the Deputy Commissioner of Taxes.

(2) For the purposes of making an assessment of the income of the deceased and recovery of tax,-

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued from the stage at which it stood on the date of the death of the deceased ;and

(b) any proceeding which could have been taken against the deceased, if he had not died, may be taken against the legal representative;

and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) The liability of legal representative under this Ordinance shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

(4) For the purposes of this section and other provisions of this Ordinance in which the rights, interest and liabilities of the deceased are involved, "legal representative" includes an executor, an administrator and any person administering the estate of the deceased.

93. Assessment in case of income escaping assessment, etc.- (1) If, for any reason, any income chargeable to tax for any assessment year has escaped assessment or has been under assessed or has been assessed at too low a rate or has been the subject of excessive relief or refund under this Ordinance, the Deputy Commissioner of Taxes may issue a notice to the assessee containing all or any of the requirements which may be included in a notice under section 77 and may proceed to assess or determine, by an order in writing, the total income of the assessee or the tax payable by him, as the case may be, and all the provisions of this Ordinance shall, so far as may be, apply accordingly:

Provided that the tax shall be charged at the rate or rates applicable to the assessment year for which the assessment is made.

(2) No proceeding under sub-section (1) shall be initiated unless definite information has come into the possession of the Deputy Commissioner of Taxes [1][and he has obtained] the previous approval of the Inspecting Joint Commissioner in writing to do so, except in a case where a return has not been filed under section 75 or 77.

(3) A notice under sub-section (1) may be issued by the Deputy Commissioner of Taxes,-

(a) in any case in which he has reason to believe that the assessee or any other person on his behalf has not filed a return under section 75 or 77, at any time;

(b) in any case in which he has reason to believe that the assessee has for any assessment year concealed the particulars of his income or furnished inaccurate particulars thereof or omitted or failed to disclose all material facts necessary for the assessment for such year, within [2][[3][six] years] from the end of the assessment year for which the assessment is to be made:

Provided that in a case where a fresh assessment is made for any assessment year in pursuance of an order [4][sections 120,121A,156 or 159], the period of [5][[6][six] years] referred to in this clause shall commence from the end of the year in which the fresh assessment is made;

(c) in any other case, within two years from the end of the assessment year for which the assessment is to be made.

(4) In computing the period of limitation for the purpose of making an assessment or taking any other proceedings under this Ordinance, the period, if any, for which such assessment or other proceedings has been stayed by any Court, tribunal or any other authority, shall be excluded.

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[1] *Subs. for the words "or he has obtained" by F.A. 1995*
[2] *Subs. for "eight years" by F.A. 1995*
[3] *Subs. for "five" by F.A. 2012*
[4] *Subs. for "sections 120, 156 or 159" by F.A. 2009*
[5] *Subs. for "eight years" by F.A. 1995*
[6] *Subs. for "five" by F.A. 2012*

(5) Notwithstanding anything contained in sub-section (3), where an assessment or any order has been annulled, set aside, cancelled or modified, the concerned income tax authority may start the proceedings from the stage next preceding the stage at which such annulment, setting aside, cancellation or modification took place, and nothing contained in this Ordinance shall render necessary the re-issue of any notice which has already been issued or the re-furnishing or refiling of any return, statement or other particulars which has already been furnished or filed, as the case may be.

94. Limitation for assessment.- [1][(1) Subject to the provisions of sub-sections (2) and (3), no order of assessment under the provisions of this Chapter in respect of any income shall be made after the expiry of six months from the end of the assessment year in which the income was first assessable.]

[2][(1A) Notwithstanding anything contained in sub-section (1), no order of assessment under [3][sub-section (3) of section 82BB] shall be made-

(a) after the expiry of two years from the end of the assessment year in which the income was first assessable [4][.

(b)***]]

[5][(1B) Notwithstanding anything contained in sub-section (1) or (1A), no order of assessment under section 107C of this Ordinance shall be made after the expiry of three years from the end of the assessment year in which the income was first assessable.]

(2) Notwithstanding anything contained in sub-section (1), assessment under section 93 may be made-

(a) in the cases falling under section 93(3)(a) and (b), within [6][two years] from the end of the year in which notice under the said sub-section was issued ; and (b) in the cases falling under section 93(3)(c), within [7][one year] from the end of the year in which notice under the said sub-section was issued.

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[1] *Subs. by F.A. 2002 and re-subs. by F.A. 2004*

[2] *Ins. by F.A. 2003*

[3] *Subs. for "sub-section (2) of section 82B, sub-section (3) of section 82BB or sub-section (2) of 83A" by F.O. 2008*

[4] *Subs. for "full-stop" for "semi-colon" and omitted "or" and clause (b) by F.A. 2010*

[5] *Ins. new sub-section (IB) by F.A. 2012*

[6] *Subs. for "four years" by F.A. 1995*

[7] *Subs. for "two years" by F.A. 1995*

(3) Notwithstanding anything contained in this section, limiting the time within which any action may be taken, or any order or assessment may be made, order or assessment, as the case may be, to be made on the assessee or any other person in consequence of, or to give effect to, any finding or direction contained in an order under [1][sections 120, 121A, 156, 159, 161 or 162 or, in the case of a firm, an assessment to be made on a partner of a firm in consequence of an assessment made on the firm, [2][shall be made within thirty days] from the date on which the order was communicated and such revised order shall be communicated to the assessee within thirty days next following[3][:

Provided that where an order of assessment has been set aside by any authority in that case the assessment shall be made within forty five days from the date on which the order was communicated to him.]

Explanation I - Where, by an order under [4][sections 120, 121A, 156, 159, 161 or 162], any income is excluded from the total income of the assessee for an assessment year, an assessment of such income for another assessment year shall, for the purposes of this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order.

Explanation II - Where, by an order under [5][sections 120, 121A, 156, 159, 161 or 162], any income is excluded from the total income of one person and held to be the income of another person, an assessment of such income of such other person, shall, for the purposes of this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order.

[6][(4) where the Deputy Commissioner of Taxes fails to give effect to any finding or direction contained in an order referred to in sub-section (3) within the period stipulated therein, such failure of the Deputy Commissioner of Taxes shall be construed as misconduct.]

[7]**[(94A)***]**

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[1] *Subs. for "sections 120,156,159,161 or 162" by F.A. 2009*
[2] *Subs. the words "may made within sixty days" by F.A. 2002*
[3] *Ins. by F.A. 2004*
[4] *Subs. for "sections 120, 156, 159, 161 or 162" by F.A. 2009*
[5] *Subs. for "sections 120, 156, 159, 161 or 162" by F.A. 2009*
[6] *Ins. by F.A. 2002*
[7] *Ins. by F.A. 2002 subsequently omitted by F.A. 2003*

CHAPTER X
LIABILITY IN SPECIAL CASES

95. Liability of representative in certain cases.- (1) Every person who is a representative of another person in respect of any income for the purpose of this section shall, in respect of such income,-

(a) be subject to the same duties, responsibilities and liabilities as if such income were received by, or accruing to, or in favour of, him beneficially ;

(b) be liable to assessment in his own name ; and

(c) be deemed, subject to other provisions of this Chapter, to be the assessee for all purposes of this Ordinance.

(2) A person, who is assessed in pursuance of this section as a representative in respect of any income, shall not, in respect of the same income, be assessed under any other provision of this Ordinance.

(3) Nothing in this section shall prevent either the direct assessment of the person for whom, or on whose behalf or for whose benefit, the representative is entitled to receive any income or recovery from such person of the tax payable in respect of such income.

(4) For the purposes of this section,-

(a) the guardian, manager or trustee, who receives or is entitled to receive any income for, or on behalf or for the benefit, of any minor, lunatic or idiot, shall be the representative in respect of such income;

(b) the Administrator-General, the Official Trustee, or any receiver, manager or other person, however designated, appointed by or under any order of a Court, who receives or is entitled to receive any income for, or on behalf or for the benefit, of any other person shall be the representative in respect of such income ;

(c) the trustee or trustees appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise, including a legally valid deed of waqf, who receive or are entitled to receive any income for, or on behalf or for the benefit, of any person shall be the representative in respect of such income; and

(d) a person who is treated under section 96 as an agent in relation to a non-resident, shall be the representative in respect of such income of the non-resident as is deemed to accrue or arise in Bangladesh under section 18.

96. Persons to be treated as agent.- (1) For the purposes of this Ordinance, the following persons shall, subject to the provisions of sub-sections (2) and (3), be treated as agent in relation to a non-resident, namely:-

(a) any person in Bangladesh-

(i) who is employed by, or on behalf of, the non-resident;

(ii) who has any business connection with the non-resident;

(iii) who holds, or controls the receipt or disposal of, any money belonging to the non-resident;

(iv) who is a trustee of the non-resident ; or

(v) from or through whom the non-resident is in receipt of any income, whether directly or indirectly ;

(b) any person, whether a resident or non-resident, who has acquired, by means of transfer, a capital asset in Bangladesh from a person residing outside Bangladesh ; and

(c) any person who, for any other reasonable cause, is declared or treated as an agent of the non-resident.

(2) An independent broker in Bangladesh, who in respect of any transaction, does not deal directly with, or on behalf of, a non-resident principal but deals with, or through, a non-resident broker, shall not be treated as an agent in relation to a non-resident in respect of such transaction if-

(a) the transaction is carried on in the ordinary course of business through the non-resident broker; and

(b) the non-resident broker is carrying on such transaction in the ordinary course of business.

(3) No person shall be treated under this Ordinance as an agent in relation to a non-resident unless he has been given by the Deputy Commissioner of Taxes an opportunity of being heard.

97. Right of representative to recover tax paid.- (1) A representative who, on account of his liability under section 95, pays any sum, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his possession or may come to him in his capacity as a representative, an amount equivalent to the sum so paid.

(2) A representative, or any person who apprehends that he may be assessed as a representative, may retain, out of any money payable to the person (hereinafter referred to as "the beneficiary") on whose behalf he is liable to tax under section 95, a sum not exceeding his estimated liability ;

(3) In the event of any disagreement between the beneficiary and the representative or, as the case may be, the person apprehensive of being assessed as representative, as to the amount to be retained under sub-section (2), such representative or person may secure from the Deputy Commissioner of Taxes a certificate stating the amount to be so retained pending the settlement of the liability and the certificate so obtained shall be the warrant for retaining that amount.

98. Liability of firm or association for unrecoverable tax due from partners or members.- (1) Where any tax payable by partner of a firm or a member of an association of persons in respect of his share of the income from the firm or association, as the case may be, cannot be recovered from him, the Deputy Commissioner of Taxes shall notify the amount of the tax to the firm or association.

(2) Upon notification of the amount of tax under sub-section-(1), the firm or association so notified shall, notwithstanding anything contained in any other law for the time being in force, be liable to pay the said tax and shall, for the purposes of recovery thereof, be deemed to be an assessee in respect of such tax; and the provisions of this Ordinance shall apply accordingly.

99. Liability of partners, etc., for discontinued business of a firm, etc.- (1) Where any business or profession carried on by a firm or an association of persons has been discontinued, or where a firm or an association of persons is dissolved, assessment of the total income of the firm or association may be made as if no such discontinuance or dissolution had taken place; and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(2) Where an assessment is made under sub-section (1) in respect of a firm or an association of persons, every person who was a partner of the firm or member of the association at the time of discontinuance of business, or as the case may be, dissolution of the firm or association, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax found payable by the firm or association upon such assessment and shall, for the purpose of recovery of such tax, including penalty and other sum payable, be deemed to be an assessee ; and the provisions of this ordinance shall apply accordingly.

100. Liability of directors for unrecoverable tax of private companies.- (1) Where any private company is wound up and any tax assessed on the company, whether before, or in the course of, or after its liquidation, in respect of any income of any income year cannot be recovered, every

person who was, at any time during the relevant income year, a director of that company, shall, notwithstanding anything contained in [1][the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)], be jointly and severally liable to pay the said tax and shall, for the purposes of recovery thereof, be deemed to be an assessee in respect of such tax ; and the provisions of this Ordinance shall apply accordingly.

(2) Notwithstanding the provisions of sub-section (1), the liability of any person thereunder in respect of the income of a private company shall cease if he proves to the Deputy Commissioner of Taxes that non-recovery of tax from the company cannot be attributed to any gross neglect, misfeasance or breach of any duty on his part in relation to affairs of the company.

101. Liability of liquidator for tax of private companies under liquidation.- (1) A liquidator of a private company which is wound up, whether under the orders of a court or otherwise, shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Deputy Commissioner of Taxes having jurisdiction to assess the company.

(2) The Deputy Commissioner of Taxes shall, after making such enquiries or, calling for such information as he may consider necessary, notify to the liquidator within three months of the date of receipt of the notice under sub-section (1), the amount which, in his opinion, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) On being notified under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and shall not, before he sets aside such amount, part with any of the assets of the company except for the purpose of payment of tax payable by the company or for making payment to secure such creditors as are entitled under the law to priority of payment over debts due to the Government on the date of liquidation.

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[1]*Subs. for "the Companies Act. 1913 (VII of 1913)" by F.A. 1999*

(4) The liquidator shall be personally liable for payment of the tax on behalf of the company to the extent of the amount notified, if any, under sub-section(2), if he-

(a) fails to give notice as required by sub-section (1); or

(b) contravenes the provisions of sub-section (3).

(5) Where there are more liquidators than one, the obligations and liabilities of a liquidator under this section shall attach to all the liquidators jointly and severally.

(6) This section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Explanation.-In this section, "liquidator" includes any person who has been appointed to be the receiver of the assets of the company under liquidation.

[1]**[102. Liability to tax in case of shipping business of non-resident.-** (1) Notwithstanding anything contained in this Ordinance, where a non resident carries on the business of operation of ships as the owner or charterer thereof (hereinafter in this section referred to as the principal) tax shall be levied and collected in respect of such business in accordance with the provisions of this section.

(2) Before the departure from any port in Bangladesh of any ship, the master of the ship shall prepare and furnish to the Deputy Commissioner of Taxes a return showing-

(a) the amount paid or payable whether in or out of Bangladesh to the principal, or to any person on his behalf, on account of the carriage of passengers, livestock, mail or goods shipped at the port since the last arrival of the ship; and

(b) the amount received, or deemed to be received in Bangladesh by, or on behalf of, the principal on account of the carriage of passengers, livestock, mail or goods at any port outside Bangladesh.

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[1]*Subs. by F.A. 1989*

(3) On receipt of the return, the Deputy Commissioner of Taxes shall determine the aggregate of the amounts referred to in sub-section (2) and, for this purpose, may call for such particulars, accounts or documents, as he may require and the aggregate of the said amounts so determined, shall be deemed to be income received in Bangladesh by the principal from the said business chargeable to tax under this Ordinance under the head "Income from business or profession", and tax thereon shall be charged at the rate of eight per cent. of such income.

(4) Where the Deputy Commissioner of Taxes is satisfied that it is not possible for the master of the ship or the principal to furnish the return required under subsection (2) before the departure of the ship from the port and the principal has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Deputy Commissioner of Taxes may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the principal as sufficient compliance with sub-section (2).

(5) No port clearance shall be granted to the ship until the [1][Commissioner of Customs] or any other officer duly authorised to grant the same, is satisfied that the tax payable under sub-section (3) has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(6) Nothing contained in this Ordinance shall be so construed as to allow any expense against the aggregate amount of receipts as determined under subsection (3).

(7) The tax paid under this section shall be deemed to be the final discharge of the tax liability of the assessee under this Ordinance, and the assessee shall not be required to file the return of total income under section 75 nor shall he be entitled to claim any refund or adjustment on the basis of such return.]

[2]**[(103.)***]**

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[1] Subs. for "Collector of Customs" by F.A. 1999
[2] omitted by F.A. 1989

[1][103A. Liability to tax in case of air transport business of non-residents.-

(1) Notwithstanding anything contained in this Ordinance, where a non-resident person carries on the business of operation of aircraft, as the owner or charterer thereof (hereinafter in this section referred to as "the principal"), and any aircraft owned or chartered by him calls on any airport in Bangladesh, the aggregate of the receipts arising from the carriage of passengers, livestock, mail or goods loaded at the said airport into that aircraft shall be deemed to be income received in Bangladesh by the principal from the said business chargeable to tax under the head "Income from business or profession", and tax thereon shall be charged at the rate of three percent of such income.

(2) The principal or an agent authorised by him in this behalf shall prepare and furnish to the Deputy Commissioner of Taxes, within forty-five days from the last day of each quarter of every financial year, that is to say, the thirtieth day of September, the thirty-first day of December, the thirty-first day of March and the thirtieth day of June, respectively, return in respect of each quarter as aforesaid showing-

(a) the amount paid or payable whether in or out of Bangladesh to the principal, or to any person on his behalf, on account of the carriage of passengers, livestock, mail or goods loaded at the said airport; and

(b) the amount received, or deemed to be received, in Bangladesh by, or on behalf of, the principal on account of the carriage of passengers, livestock, mail or goods at any airport outside Bangladesh.

(3) On receipt of the return, the Deputy Commissioner of Taxes may, after calling for such particulars, accounts or documents, as he may require, determine the aggregate of the amounts referred to in sub-section (2), and charge tax as laid down in sub-section (1).

(4) Where, the principal fails to pay the tax payable under sub-section (1) for more than three months, the Commissioner of Taxes may issue to the authority by whom clearance may be granted to that aircraft, a certificate containing the name of the principal and the amount of tax payable by him; and on receipt of such certificate, the said authority shall refuse clearance from any airport in Bangladesh to any aircraft owned or chartered by such person until the tax payable has been paid.

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[1] *Ins. by F.A. 1989 w.e.f the income year relating to the assessment year 1990-91 and thereafter*

(5) Nothing contained in this Ordinance shall be so construed as to allow any expense against the aggregate amount of receipts as determined under sub-section(3).

(6) The tax paid under this section shall be deemed to be the final discharge of the tax liability of the assessee under this Ordinance, and the assessee shall not be required to file the return of total income under section 75 nor shall he be entitled to claim any refund or adjustment on the basis of such return.

CHAPTER XI
SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

104. Avoidance of tax through transactions with non-residents.- Where any business is carried on between a resident and a non-resident and it appears to the Deputy Commissioner of Taxes that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or profits less than the ordinary profits which might be expected to yield in that business, the Deputy Commissioner of Taxes shall determine the amount of income which may reasonably be considered to have accrued to the resident from such business and include such amount in the total income of the resident.

105. Avoidance of tax through transfer of assets.- (1) Any income which becomes payable to a non-resident by virtue, or in consequence, of any transfer of assets, whether alone or in conjunction with associated operations, shall be deemed to be the income of the person who-

(a) has acquired, by means of such transfer or associated operations, any right by virtue, or in consequence, of which he has power to enjoy, whether forthwith or in future, the income which becomes so payable to the non-resident, or

(b) has received or is entitled to receive at any time, for reasons attributable to such transactions or associated operations, any sum paid or payable by way of loan or repayment of loan or any other sum, not being a sum paid or payable as income or for full consideration of money or money's worth.

(2) The income which becomes payable to a non-resident and is deemed under sub-section (1), to be the income of the person referred to therein shall be so deemed for all purposes of this Ordinance, whether such income would or would not have been chargeable to tax apart from the provisions of this section.

(3) The provisions of this section shall not operate if it is shown to the satisfaction of the Deputy Commissioner of Taxes-

(a) that neither the transfer nor any associated operation had for its purpose, or for one of its purposes, the avoidance of liability to taxation; or

(b) that the transfer and all associated operations were bona fide commercial transaction and were not designed for the purpose of avoiding liability to taxation.

(4) Where any person has been charged to tax on any income which is deemed under sub-section (1) to be his income, that income shall not again be deemed to form part of his income for the purpose of this Ordinance if it is subsequently received by him whether as income or in any other form.

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy the income payable to a non-resident if-

(a) such income is in fact so dealt with as to be calculated to ensure at any time for the benefit of such person in any form; or

(b) the receipt or accrual of such income operates to increase the value of any assets held by such person or for his benefit; or

(c) such person receives or is entitled to receive at any time any benefit provided or to be provided-

(i) out of such income; or

(ii) out of money which is, or will be, available for the purpose by reason of the effect or successive effects of associated operations on such income and on any assets representing the income ; or

(d) such person has, by means of the exercise of any power of appointment, revocation or otherwise, power to obtain for himself, with or without the consent of any other person, the beneficial enjoyment of such income; or

(e) such person is able to control, directly or indirectly, the application of such income, in any manner whatsoever.

(6) In determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and to all benefits which may at any time accrue to such person as a result of the transfer and associated operations irrespective of the nature or form of the benefit.

Explanation.- For the purposes of this section-

(a) "assets" includes property or rights of any kind and "transfer", in relation to assets being rights, includes creation of those rights;

(b) "associated operation", in relation to any transfer, means an operation of any kind effected by any person in relation to -

(i) any of the assets transferred; or

(ii) any income arising from such assets; or

(iii) any assets representing, directly or indirectly, any of the assets transferred, or the accumulation of the income arising from such assets;

(c) "benefit" includes a payment of any kind;

(d) references to assets representing any assets transferred, or any income or accumulation of income arising there from, includes references to shares in or obligation of any company to which, or the obligation of any other person to whom, any such assets or that income or accumulation of income is or has been transferred; and

(e) any body corporate incorporated outside Bangladesh shall be treated as if it were a non-resident.

106. Avoidance of tax by transactions in securities.- (1) Where the owner of any securities sells or transfers those securities and buys them back or reacquires them, or buys or acquires similar securities, and the result of the transactions is that any interest becoming payable in respect of the original securities sold or transferred by the owner is not receivable by the owner, the interest payable as aforesaid shall be deemed, for all purposes of this Ordinance, to be the income of such owner and not of any other person, whether the interest payable as aforesaid would or would not have been chargeable to tax apart from the provisions of this sub-section.

(2) Where any person has had for any period during an income year any beneficial interest in any securities and the result of any transactions within that year relating to such securities or the income thereof is that no income is received by him, or that the income received by him is less than the sum which the income would have amounted to had the income from such securities accrued from day to day, and been apportioned to the said period, then the income from such securities for the said period shall be deemed to be the income of such person.

(3) Where, any person carrying on a business which consists wholly or partly in dealing in securities buys or acquires any securities from any other person and either sells back or re-transfers those securities, or sells or transfers similar securities, to such other person, and the result of the transactions is that the interest becoming payable in respect of the securities bought or acquired by him is receivable by him but is not deemed to be his income by reason of the provisions of sub-section (1), no account shall be taken of the transactions in computing for any of the purposes of this Ordinance any income arising from, or loss sustained, in the business.

(4) The Deputy Commissioner of Taxes may, by notice in writing, require any person to furnish him, within such time, not being less than twenty-eight days, as may be specified in the notice, such particulars in respect of all securities of which such person was the owner, or in which he had beneficial interest at any time during the period specified in the notice, as the Deputy Commissioner of Taxes may consider necessary for the purpose of ascertaining whether tax has been borne in respect of the interest on all those securities and also for other purposes of this section.

Explanation.- For the purposes of this section,-

(a) "interest" includes dividend;

(b) "securities" includes stocks and shares; and

(c) securities shall be deemed to be similar if they entitle their holders to the same right against the same persons as to capital and interest and the same remedies for the enforcement of these rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred.

107. Tax clearance certificate required for persons leaving Bangladesh.-(1) Subject to such exceptions as the Board may make in this behalf, a person who is not domiciled in Bangladesh, or a person who being domiciled in Bangladesh at the time of his departure is not, in the opinion of an income tax authority likely to return to Bangladesh, shall not leave Bangladesh without obtaining from the Deputy Commissioner of Taxes authorised in this behalf by the Board.-

(a) a tax clearance certificate, or

(b) if he has the intention of returning to Bangladesh, an exemption certificate which shall be issued only if the Deputy Commissioner of Taxes is satisfied that such person has such intention; and such exemption certificate may be either for a single journey or for all journeys within the period specified in the certificate.

(2) The owner or charterer of any ship or aircraft, who issues any authority to any person referred to in sub-section (1) for travel by such ship or aircraft from any place in Bangladesh to any place outside Bangladesh unless such person has a certificate required by that sub-section, shall-

(a) be liable to pay the amount of tax, if any, which has or may become due and payable by such person and also to a penalty which may extend to two thousand taka; and

(b) be deemed, for the purposes of recovery of such tax and penalty, to be an assessee in default, and all the provisions of this Ordinance shall apply accordingly.

Explanation.- For the purposes of this section-

(a) "exemption certificate", in relation to any person, means a certificate to the effect that such person is exempt from the requirement of having a tax clearance certificate for the purpose of the journey or journeys specified therein;

(b) "owner" or "charterer" includes any representative, agent or employee, who may be empowered by the owner or charterer of a ship or aircraft to issue an authority to travel by the ship or aircraft; and

(c) "tax clearance certificate", in relation to a person, means a certificate to the effect that such person has no liability under this Ordinance, the Income-tax Act, 1922 (XI of 1922), the [Gift-tax Act, 1963 (XIV of 1963) or দানকর আইন, ১৯৯০ (১৯৯০ সনের ৪৪ নং আইন) or the Wealth-tax Act, 1963 (XV of 1963)], or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by such person.

[1][CHAPTER XIA
Transfer Pricing

107A. Definitions.- In this Chapter, unless there is anything repugnant in the subject or context, -

(1) "arm's length price" means a price in a transaction, the conditions (e.g. price, margin or profit split) of which do not differ from the conditions that would have prevailed in a comparable uncontrolled transaction between independent entities carried out under comparable circumstances;";

(2) "associated enterprise", in relation to another enterprise, means an enterprise which, at any time during the income year, has the following relationship with the other enterprise-

(a) one enterprise participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or
(b) the same person or persons participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital, of both enterprises; or
(c) one enterprise holds, directly or indirectly, shares carrying more than twenty five percent of the voting power in the other enterprise; or
(d) the same person or persons controls shares carrying more than twenty five percent of the voting power in both enterprises; or
(e) the cumulative amount of borrowings of one enterprise from the other enterprise constitutes more than fifty percent of the book value of the total assets of that other enterprise; or
(f) the cumulative amount of guarantees provided by one enterprise in favour of the other enterprise constitutes more than ten percent of the book value of the total borrowings of the other enterprise; or
(g) more than half of the board of directors or members of the governing board of one enterprise are appointed by the other enterprise; or
(h) any executive director or executive member of the governing board of one enterprise is appointed by, or is in common with the other enterprise; or
(i) the same person or persons appoint more than half of the board of directors or members in both enterprises; or

[1] *Ins. new chapter "Chapter XIA" by F.A. 2012*

(j) the same person or persons appoint any executive director or executive member in both enterprises; or
(k) one enterprise has the practical ability to control the decision of the other enterprise; or
(l) the two enterprises are bonded by such relationship of mutual interest as may be prescribed;

(3) "enterprise" means a person or a venture of any nature (including a permanent establishment of such person or venture);

(4) "independent enterprise" means an enterprise that is not an associated enterprise;

(5) "international transaction" means a transaction between associated enterprises, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses, assets, financial position or economic value of such enterprises, and includes-

(a) a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises;

(b) a transaction entered into by an enterprise with a person other than an associated enterprise, if there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise, or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise;

(6) "permanent establishment" includes a place of management, a branch, an agency, an office, a warehouse, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, a firm or plantation, or any other fixed place through which the business of the enterprise is wholly or partly carried on;

(7) "property" includes goods, articles, things or items, patent, invention, formula, process, design, pattern, know-how, copyright, trademark, trade name, brand name, literary, musical, or artistic composition, franchise, license or contract, method, program, software, database, system, procedure, campaign, survey, study, forecast, estimate, customer list, technical data, any aspects or advertising and marketing, any item which has substantial value, or any other intangible property;

(8) "record" includes electronically held information, documents and records;

(9) [৩]Transfer Pricing Officer" means any income tax authority authorised by the Board to perform the function of a Transfer Pricing Officer;

(10) "transaction" includes an arrangement, understanding or action between two or more parties, whether or not such arrangement, understanding or action is formal or in writing; or whether or not it is intended to be enforceable by legal proceeding;

(11) "uncontrolled transaction" means a transaction undertaken between enterprises not being the associated enterprises.

107B. Determination of income from international transaction having regard to arm's length price.- Notwithstanding anything contained in Chapter XI of this Ordinance, the amount of any income, or expenditure, arising from an international transaction shall be determined having regard to the arm's length price.

107C. Computation of arm's length price.- (1) The arm's length price in relation to an international transaction shall be determined by applying the most appropriate method or methods selected from the following methods based on the nature of transaction, the availability of reliable information, functions performed, assets employed, risks assumed or such other factors as may be prescribed, namely:—

(a) comparable uncontrolled price method;

(b) resale price method;

(c) cost plus method;

(d) profit split method;

(e) transactional net margin method;

(f) any other method where it can be demonstrated that-

(i) none of the methods mentioned in clause (a) to (e) can be reasonably applied to determine the arm's length price for the international transaction; and

(ii) such other method yields a result consistent with the arm's length price.

(2) The most appropriate method referred to in sub-section (1) shall be applied for determination of arm’s length price in the manner as may be prescribed:

Provided that the arm’s length price determined under this section shall not result in total income lower than the total income that would have been resulted if the price at which international transaction has actually been undertaken were taken as the price charged or paid in the said international transaction.

(3) Where in the course of any assessment under Chapter IX of this Ordinance, the Deputy Commissioner of Taxes is of the opinion that—

(a) the price charged or paid in an international transaction has not been determined by the assessee in accordance with sub-sections (1) and (2); or

(b) the assessee has failed to maintain the information, documents or records in accordance with the provisions of section 107E; or

(c) the information or data based on which the arm's length price was computed by the assessee is not reliable or correct;

the Deputy Commissioner of Taxes may determine the arm’s length price in relation to the said international transaction in accordance with provisions of sub-sections (1) and (2) on the basis of information or documents or other evidence available to him.

(4) In determining the arm's length price under sub-section (3), the Deputy Commissioner of Taxes shall give an opportunity to the assessee by serving a notice calling upon him to show cause, on a date and time to be specified in the notice, why the arm's length price should not be so determined on the basis of information or documents or other evidence available to the Deputy Commissioner of Taxes.

(5) Where an arm's length price is determined under sub-section (3) of this section or under sub-section (4) of section 107D, the Deputy Commissioner of Taxes shall, by an order in writing, proceed to compute the total income of the assessee having regard to the arm's length price so determined.

107D. Reference to Transfer Pricing Officer.- (1) Notwithstanding anything contained in section 107C of this Ordinance,-

(a) the Deputy Commissioner of Taxes, with prior approval of the Board, may refer the determination of the arm's length price under section 107C to the Transfer Pricing Officer;

(b) the Transfer Pricing Officer, with prior approval of the Board, may proceed to determine the arm's length price in relation to any international transaction.

(2) Where a reference is made or any proceedings have been initiated under sub-section (1), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date to be specified therein, any evidence on which the assessee may rely in support of his computation of the arm's length price in relation to the international transaction in question.

(3) The Transfer Pricing Officer shall, after considering the evidence produced before him or available to him including the evidence as he may require on any specified points from the assessee or from any other person, and after taking into account all relevant materials which he has gathered shall, by order in writing, determine the arm's length price in relation to the international transaction in accordance with section 107C of this Ordinance and send a copy of his order to the Deputy Commissioner of Taxes.

(4) The Deputy Commissioner of Taxes, upon receipt of the order under sub-section (3), shall proceed to compute the total income of the assessee in conformity with the arm's length price so determined by the Transfer Pricing Officer.

(5) The Transfer Pricing Officer may rectify any order passed by him under sub-section (3) so as to correct any mistake apparent from the record either of his own motion or on the mistake having been brought to his notice by the assessee or any other income tax authority, and the provisions of section 173 of this Ordinance shall, so far as may be, apply accordingly.

(6) Where any rectification is made under sub-section (5), the Transfer Pricing Officer shall send a copy of his order to the Deputy Commissioner of Taxes who shall thereafter proceed to amend the order of assessment in conformity with such order of the Transfer Pricing Officer.

107E. Maintenance and keeping of information, documents and records.-
(1) Every person who has entered into an international transaction shall keep and maintain such information, documents and records as may be prescribed.

(2) Without prejudice to the provisions of sub-section (1), the Board may prescribe the period for which the information, documents and records shall be kept and maintained.

(3) The Deputy Commissioner of Taxes may, by notice in writing, require any person to furnish any information, documents and records as prescribed under sub-section (1) within the period as may be specified in the notice.

[1]**[107EE. Statement of international transactions to be submitted.-** Every person who has entered into an international transaction shall furnish, along with the return of income, a statement of international transactions in the form and manner as may be prescribed.]

107F. Report from an accountant to be furnished.- Every person who has entered into international transaction or transactions the aggregate of value which, as recorded in the books of account, exceeds three crore taka during an income year shall furnish, on or before the specified date in the form and manner as may be prescribed, a report from a Chartered Accountant.

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[1] *Ins. new section 107EE by F.A. 2014*

107G. Penalty for failure to keep, maintain or furnish information, documents or records to the Deputy Commissioner of Taxes.- Where any person fails to keep, maintain or furnish any information or documents or records as required by section 107E of this Ordinance, without prejudice to the provisions of Chapter XV of this Ordinance, the Deputy Commissioner of Taxes may impose upon such person a penalty not exceeding one per cent of the value of each international transaction entered into by such person.

107H. Penalty for failure to comply with the notice or requisition under section 107C.- Where any person fails to comply with the notice or requisition under section 107C of this Ordinance, the Deputy Commissioner of Taxes may impose upon such person a penalty not exceeding one percent of the value of each international transaction entered into by such person.

107I. Penalty for failure to furnish report under section 107F.- Where any person fails to furnish a report from a Chartered Accountant as required by section 107F of this Ordinance, the Deputy Commissioner of Taxes may impose upon such person a penalty of a sum not exceeding three lakh taka.

107J. Applicability of this Chapter.- The provisions of this Chapter shall come into force from the date specified by the Board through notification in the official Gazette.]

CHAPTER XII
REQUIREMENT OF FURNISHING CERTAIN INFORMATION

108. Information regarding payment of salary.- Every person responsible for making any payment constituting income classifiable under the head "Salaries" not being payment made by the Government, and the prescribed officer in cases where such payments are made by the Government, shall, before the first day of September each year, furnish to the Deputy Commissioner of Taxes, a statement prepared in the prescribed form and verified in the prescribed manner so as to give the following information, namely :-

(a) the name and address of every person to whom such payment has been made, or was due, during the preceding financial year if the payment exceeds such amount as may be prescribed;

(b) the amount of payment so made, or due;

(c) the amount deducted as tax from such payment; and

(d) such other particulars as may be prescribed:

Provided that the Deputy Commissioner of Taxes may extend the date for the delivery of the statement.

109. Information regarding payment of interest.- Every person responsible for making any payment of interest constituting income not classifiable under the head "Interest on securities" shall, if such payment exceeds [1][fifteen thousand taka], before the first day of September each year, furnish to a prescribed officer a statement prepared in the prescribed form and verified in the prescribed manner so as to give the following information, namely:-

(a) the name and address of every person to whom such payment has been made, or was due, during the preceding financial year;

(b) the amount of payment so made or due; and

(c) such other particulars as may be prescribed.

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[1] *Subs. for "five thousand taka" by F.O. 1986*

110. Information regarding payment of dividend.- The principal officer of every company shall, before the first day of September each year, furnish to the prescribed officer, a statement prepared in the prescribed form and verified in the prescribed manner, so as to give the following information, namely:-

(a) the name and address of every shareholder, as entered in the register of shareholders, to whom a dividend or the aggregate of dividends has been paid or distributed during the preceding financial year if such payment exceeds such amount as may be prescribed;

(b) the amount of dividend or dividends so paid or distributed; and

(c) such other particulars as may be prescribed.

CHAPTER XIII
REGISTRATION OF FIRMS

[1]**[(111. Registration of firms:--**)***]

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[1] *Omitted by F.A. 1995*

CHAPTER XIV
POWERS OF INCOME TAX AUTHORITIES

112. Powers under this Chapter not to prejudice other powers.- The powers exercisable by income-tax authorities under this Chapter shall not prejudice, unless otherwise provided in the provisions thereof, the powers exercisable under the other provisions of this Ordinance.

113. Power to call for information.- The Deputy Commissioner of Taxes, the Inspecting Joint Commissioner, [1][the Commissioner, the Director General, Central Intelligence Cell,] or any other officer authorised in this behalf by the Commissioner or the Board may, for the purposes of this Ordinance, by notice in writing, require-

(a) any firm, to furnish him with a statement of the names and addresses of the partners and their respective shares;

(b) any Hindu undivided family, to furnish him with a statement of the names and addresses of the manager and the members of the family;

(c) any person, whom he has reason to believe to be a trustee, guardian or agent to furnish him with a statement of the names and addresses of the persons for or of whom he is trustee, guardian or agent;

(d) any assessee to furnish him with a statement of the names and address of all persons to whom he has paid in any income year any rent, interest, commission, royalty or brokerage, or any annuity, not being an annuity classifiable under the head "Salaries", amounting to more than three thousand taka, together with particulars of all such payment;

(e) any dealer, broker or agent, or any person concerned in the management of a Stock Exchange, to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the transfer of capital assets, or on whose behalf or from whom he or the Exchange has received any such sum, together with the particulars of all such payments and receipts; or

(f) any person, including a banking company, to furnish information in relation to such points or matters, or to furnish such statements or accounts giving such particulars, as may be specified in the notice:

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[1] *Subs. for "the Commissioner" by F.A. 2004.*

Provided that no such notice on a banking company shall be issued by the Deputy Commissioner of Taxes or the Inspector, without the approval of the Commissioner.[1][***]

114. Power to Inspect registers of companies.- The Deputy Commissioner of Taxes, the Joint Commissioner of Taxes or any person authorised in writing in this behalf by either of them, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or any entry in such register.

115. Power of survey.- (1) For the purpose of survey of liability of any person to tax under this Ordinance, an income tax authority may, notwithstanding anything contained in other provisions of this Ordinance but subject to such directions or instructions as the Board may issue in this behalf, enter any place of premises within the limits or its jurisdiction and-

(a) inspect any accounts or documents and check or verify any article or thing;

(b) make an inventory of any cash, stock or other valuable articles or things checked or verified by it;

(c) place marks of identification on or stamp the books of accounts or other documents inspected by it and make or cause to be made extracts or copies therefrom;

(d) record the statement of any person which may be useful for, or relevant to, any proceeding under this Ordinance; and

(e) make such enquiries as may be necessary.

(2) Subject to the provisions of section 117, any income-tax authority exercising powers under sub-section (1), shall not remove or cause to be removed from any place or premises wherein he has entered, any books of accounts or other documents, or any cash, stock or other valuable article or thing.

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[1] *Omitted by F.O. 2007*

(3) Every proprietor, employee or other person who may be attending in any manner to, or helping in, the carrying on of any business or profession, or every person who may be residing in the place or premises in respect of which an income tax authority may be exercising power under sub-section (1), shall in aid of the exercise of such power,-

(a) afford the authority necessary facilities for inspection of books of accounts or other documents, or for checking or verifying the cash, stock or other valuable article or thing found in such place or premises; and

(b) furnish such information as the authority may require in respect of any matter which may be useful for, or relevant to, any proceeding under this Ordinance.

116. Additional powers of enquiry and production of documents.- (1) The [1][***] [2][Director-General of Inspection], [3][the Commissioner, the director General, Central Intelligence Cell,] and the Inspecting Joint Commissioner may, without prejudice to other powers which they may have under other provisions of this Ordinance, make any enquiry which they consider necessary as respects any person liable, or believed by them to be liable, to assessment under this Ordinance, or [4][require any such person or any other person in relation to such enquiry to appear before him at the time and place as directed for providing any information or to produce or cause to be produced necessary documents, accounts or records including any electronic records and systems referred to in the Explanation of sub-section (2) of section 117 under the possession or control of such person or such other person]

(2) For the purposes of sub section (1), [5][***] the Directors-General of Inspection, [6][the Commissioner, the Director General, Central Intelligence Cell,] and the Inspecting Joint Commissioner shall have the same powers as the Deputy Commissioner of Taxes has under this Ordinance for the purposes of making enquiry or requiring the production of accounts or documents including the powers under section 117(2).

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[1] *Omitted by F.A. 1995*
[2] *Subs. for Director of Inspection by F.A. 1993*
[3] *Subs. for "the Commissioner" by F.A. 2004*
[4] *Ins. by F.A. 2013*
[5] *Omitted by F.A. 1995*
[6] *Subs. for "the commissioner" by F.A. 2004*

(3) [1][The Commissioner, the director General, Central Intelligence Cell,] the Inspecting Joint Commissioner, the Deputy Commissioner of Taxes or an Inspector, if he is so authorised in writing, may, for the purpose of making any enquiry which he considers necessary, enter the premises in which a person liable or believed by him to be liable to assessment, carries on his business or profession, and may call for and inspect any such person's accounts or any documents in his possession, and may stamp any accounts or documents so inspected, and may retain such accounts or documents for so long as may be necessary for examination thereof or for the purposes of a prosecution:

Provided that the Deputy Commissioner of Taxes or an Inspector shall not make any enquiries from any scheduled bank regarding any client of such bank except with the prior approval of [2][the [3][***]Commissioner, the Director General, Central intelligence Cell,].

[4]**[116A. Power of giving order for not removing property.-** (1) Where, in the course of performing functions under this Ordinance, the Director General, Central Intelligence Cell or the Commissioner has definite information in his hands that any person has concealed the particulars of income or investment, he may, by order in writing, require any person who is in immediate possession or control of any money, bullion, jewellery, financial instrument, financial asset, valuable article or any other property not to remove, part with, or otherwise deal with it without obtaining previous permission of the concerned authority passing such order.

(2) Every such order shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

(3) The income tax authority mentioned in sub-section (1) may extend such period or periods with the approval of the Board:

Provided that the total period of extension shall in no case exceed one year.

(4) In computing the period referred to sub-section (2) and sub-section (3), the period, if any, for which the order under sub-section (1) has been stayed by any court, shall be excluded.]

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[1] *Subs. for "the commissioner" by F.A. 2004.*

[2] *Subs. for "the commissioner" by F.A. 2004.*

[3] *The words " Senior Commissioner or" Deleted by F.A. 1995*

[4] *Ins. sub-sec. (116A) by F.A. 2013.*

117. Power of search and seizure.- (1) Where [1][***]the [2][Directors-General of Inspection] or [3][the Commissioner, the Director General, Central Intelligence Cell] or such other officer empowered in this behalf by the Board, has, on account of information in his possession, reason to believe that-

(a) any person, to whom a summons or notice under this Ordinance has been or might be issued to produce, or cause to be produced, any books of accounts or other documents, [4][or electronic records and systems,] has failed to, or is not likely to, produce or cause to be produced such books of accounts or other documents, [5][or electronic record and system,] or

(b) any person is in possession of any money, bullion, jewellery or other valuable article or thing which represents, wholly or partly, income or property which is required to be disclosed under this Ordinance but has not been so disclosed, he may authorise any officer subordinate to him, being not below the rank of the [6][Assistant Commissioner of Taxes] to exercise the powers under sub-section (2)

(2) An officer authorised under sub-section (1) (hereinafter referred to as the authorised officer) may, notwithstanding anything contained in any other law for the time being in force,-

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[1] *The words " Senior Commissioner or" Omitted by F.A. 1995*
[2] *Subs. for "Director of Inspection" by F.A. 1993*
[3] *Subs. for "the commissioner" by F.A. 2004.*
[4] *Ins. by F.A. 2010*
[5] *Ins. by F.A. 2010*
[6] *Subs for "Deputy Commissioner of Taxes" by F. A. 2012*

(a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that any books of accounts, documents, [1][electronic records and systems,] money, bullion, jewellery or other valuable article or thing referred to in sub-section (1) are or have been kept ;

(b) break-open the lock of any door, box, locker, safe, almirah or other receptacle for the purpose of the said entry, and search, if keys thereof are not available;

(c) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if he has reason to suspect that such person has secreted about his person any such books of accounts, documents, [2][electronic records and systems,] money, bullion, jewellery or other valuable article or thing;

(d) seize any such books of accounts, documents, [3][electronic records and systems,] money, bullion, jewellery or other valuable article or thing found as a result of such search;

(e) place marks of identification on or stamp any books of accounts or other document or make or cause to be made extracts or copies therefrom; and

(f) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing [4][;

(g) extract the data, images or any inputs stored in the electronic records and systems or enter the systems by breaking through password protection or copy or analyse the data, books of accounts, documents, images or inputs.]

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[1] *Ins by F.A. 2010*
[2] *Ins by F.A. 2010*
[3] *Ins by F.A. 2010*
[4] *Subs."semi-colon" for "full-stop" and ins. new clause (g) by F.A. 2011*

[1][*Explanation*.- For the purpose of this section, 'electronic records and systems' include data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche and also include an electronic device.]

(3) The authorised officer may requisition the services of any police officer or other officer of the Government [2][or any professional expert from outside the government] to assist him for all or any of the purposes specified in sub-section (2); and it shall be the duty of every such officer [3][or professional expert] to comply with such requisition.

(4) The authorised officer may, where it is not practicable to seize any such books of accounts, documents, [4][electronic records and systems,] money, bullion, jewellery or other valuable article or thing, by order in writing, require the owner or the person who is in immediate possession or control thereof not to remove, part with or otherwise deal with it without obtaining his previous permission; and the authorised officer may take such steps as may be necessary for ensuring compliance with the order [5][:

Provided that if the owner or the person concerned, with out any reasonable cause, fails to comply with the provisions of this sub-section ,the Deputy Director General, Central Intelligence Cell or the Deputy Commissioner of Taxes may realize from him the money or the value of the bullion, jewellery, valuable article or thing, if any, removed, parted with or otherwise dealt with; and in such a case the said person shall be deemed to be an assessee in default under this Ordinance.]

(5) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of accounts, documents, [6][electronic records and systems,] money, bullion, jewellery or other valuable article or thing and any statement made by such person during the examination may thereafter be used in evidence in any proceeding under this Ordinance, or the Income-tax Act, 1922 (XI of 1922).

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[1]*Ins by F. A. 2012*
[2]*Ins by F.A. 2011*
[3]*Ins by F.A. 2011*
[4]*Ins by F.A. 2010*
[5]*Subs. "colon" for "full-stop" and ins. new proviso by F.O 2007*
[6]*Ins by F.A. 2010*

(6) Where any books of accounts, documents, [1][electronic records and systems,] money, bullion, jewellery or other valuable article or thing is found in the possession or control of any person in the course of a search, it may be presumed that-

(a) the books of accounts, documents, [2][electronic records and systems,] money, bullion, jewellery, article or thing belongs to such person;

(b) the contents of [3][the books of accounts, documents, electronic records and systems,] are true ; and

(c) the signature on, or the handwriting in, any such books or documents is the signature or handwriting of the person whose signature or handwriting it purports to be.

(7) The person from whose custody any books of accounts or other documents [4][or electronic records and systems,] are seized under sub-section (2) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person designated by him, at such place and time as the authorised officer may appoint in this behalf.

(8) The books of accounts or other documents [5][or electronic records and systems,] seized under sub-section (2) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless for reasons recorded in writing, approval of [6][the Commissioner, the Director General, Central intelligence Cell,] has been obtained for such retention:

Provided that [7][the Commissioner, the Director General, Central intelligence Cell] shall not approve such retention for a period exceeding thirty days after all the proceedings under this Ordinance in respect of the years for which the books of accounts or other documents, [8][electronic records and systems,] as are relevant, have been completed.

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[1] *Ins. by F.A. 2010*
[2] *Ins. by F.A. 2010*
[3] *Subs. for "the books of accounts and documents" by F.A. 2010*
[4] *Ins. by F.A. 2010*
[5] *Ins. by F.A. 2010*
[6] *Subs. for "the commissioner" by F.A. 2004*
[7] *Subs. for "the commissioner" by F.A. 2004*
[8] *Ins. by F.A. 2010*

(9) If any person, legally entitled to the books of accounts or other documents [1][or electronic records and systems,] seized under sub-section (2) objects to the approval given by [2][the Commissioner the Director General, Central Intelligence Cell] under sub-section (8), he may make an application, stating therein the reasons for his objection, to the Board for the return of the books of accounts or other documents [3][or electronic records and systems;] and the Board may, after giving the applicant an opportunity of being heard, pass such orders thereon as it may think fit.

(10) Subject to the provisions of this Ordinance and the rules, if any, made in this behalf by the Board, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to search and seizure shall apply, so far as may be, to search and seizure under sub-section (2).

Explanation.- For the purposes of this section, the word "proceeding" means any proceeding in respect of any year under this Ordinance which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and also includes all proceedings under this Ordinance which may be commenced after such date in respect of any year.

[4][117A. Power to verify deduction or collection of tax.- Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Board or any other authority empowered by the Board in this behalf may enter the premises of a deducting or collecting authority to examine, monitor or verify books of accounts and relevant records in relation to-

(a) deduction or collection of tax by the concerned authority in accordance with the provisions of chapter VII of this Ordinance; and

(b) deposit of the tax so collected or deducted to the credit of the government as per rules,

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[1] *Added by F.A. 2010*
[2] *Subs. for "the commissioner" by F.A 2004*
[3] *Added by F.A. 2010*
[4] *Ins. by F.A. 2003*

118. Retention of seized assets.- (1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) is seized under section 117, the authorised officer shall, unless he himself is the Deputy Commissioner of Taxes, forward a report thereof, together with all relevant papers, to the Deputy Commissioner of Taxes.

(2) Where he has seized any asset under section 117 or, as the case may be, he has received a report under sub-section (1), the Deputy Commissioner of Taxes shall, after giving the person concerned a reasonable opportunity of being heard and making such enquiry as [1][***]the [2][Directors-General of Inspection or the Commissioner may direct, within ninety days of the seizure of the assets, and with the previous approval of the Commissioner,-

(a) estimate the undisclosed income (including income from the undisclosed property), in a summary manner to the best of his judgment on the basis of such materials as are available with him;

(b) calculate the amount of tax payable under this Ordinance on the income so estimated; and

(c) specify the amount that will be required to satisfy any existing liability under this Ordinance, the Income tax Act, 1922 (XI of 1922), the Gift tax Act, 1963 (XIV of 1963), and the Wealth-tax Act, 1963 (XV of 1963), in respect of which such person is in default or is deemed to be in default:

Provided that if, after taking into account the materials available with him, the Deputy Commissioner of Taxes is of the view that it is not possible to ascertain to which particular income year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income chargeable to tax at the rates in force in the financial year in which the assets were seized.

Explanation.- In computing the period of ninety days for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any Court shall be excluded.

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[1] *Deleted by F.A. 1995*
[2] *Subs. for "Director of Inspection" by F.A. 1993*

(3) After completing the proceedings under sub-section (2), the Deputy Commissioner of Taxes shall, with the approval of the Commissioner, make an order requiring the person concerned to pay the aggregate of the amounts referred to in sub-section (2) (b) and (c) and shall, if such person pays, or makes satisfactory arrangement for the payment of, such amounts or any part thereof, release the assets seized under section 117 or such part thereof as he may deem fit in the circumstances of the case.

(4) Where the person concerned fails to pay, or to make satisfactory arrangements for the payment of, any amount required to be paid in pursuance of the order under sub-section (3) or any part thereof, he shall be deemed to be an assessee in default in respect of the amount or part, and the Deputy Commissioner of Taxes may retain in his custody the assets seized under section 117 on any part thereof as are in his opinion sufficient for the realisation of the said amount or, as the case may be, of such part thereof as has not been paid.

(5) If the Deputy Commissioner of Taxes is satisfied that the assets seized under section 117 or any part thereof were held by a person for or on behalf of any other person, he may proceed under this section against such other person, and all the provisions of this section shall apply accordingly.

(6) If any person objects, for any reason, to an order made under sub-section (3), he may, within thirty days of the date of such order, make an application, stating therein the reasons for his objection, to the Commissioner for appropriate relief in the matter; and the Commissioner may, after giving the applicant an opportunity of being heard, pass such orders thereon as he may think fit.

119. Application of retained assets.- (1) Where the assets retained under sub-section (4) of section 118 consist solely of money, or partly of money and partly of other assets,-

(a) the Deputy Commissioner of Taxes shall first apply such money towards payment of the amount in respect of which the person concerned is deemed to be an assessee in default under that sub-section; and thereupon such person shall be discharged of his liability to the extent of the money so applied; and

(b) where, after application of the money under clause (a), any part of the amount referred to therein remains unpaid, the Deputy Commissioner of Taxes may recover the amount remaining unpaid, by sale of such of the assets as do not consist of money in the manner movable property may be sold by a Tax Recovery Officer for the recovery of tax; and for this purpose he shall have all the powers of a Tax Recovery Officer under this Ordinance.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount referred to in section 118 (4) by any other mode provided in this Ordinance for the recovery of any liability of an assessee in default.

(3) Any assets or proceeds thereof which remain after the discharge of the liability in respect of the amount referred to in section 118 (4) shall forthwith be made over or paid to the persons from whose custody the assets were seized.

120. Power of Inspecting Joint Commissioner to revise orders of Deputy Commissioner of Taxes.- (1) The Inspecting Joint Commissioner may call for from the Deputy Commissioner of Taxes and examine the record of any proceeding under this Ordinance, and , if he considers that any order passed therein by the Deputy Commissioner of Taxes is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made, such inquiry as he thinks necessary, pass such order thereon as in his view the circumstances of the case would justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment to be made.

(2) No order shall be made under sub-section (1) after the expiry of four years from the date of the order sought to be revised.

[1]**[(121.)***]**

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[1] *Omitted by F.O. 2007*

[1]**[121A. Revisional power of Commissioner.-** (1) The Commissioner may on an application made by the assessee, call for the record of any proceeding under this Ordinance in which an order has been passed by any authority subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Ordinance, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The application for revision of an order under this Ordinance passed by any authority subordinate to the Commissioner shall be made within sixty days of the date on which such order is communicated to the assessee or within such further period as the Commissioner may consider fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within the said sixty days.

(3) The Commissioner shall not exercise his power under sub-section (1) in respect of any order-

(a) where an appeal against the order lies to the Appellate Joint Commissioner or to the Commissioner (Appeals) or to the Appellate Tribunal and the time within which such appeal may be made has not expired or the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the Appellate Joint Commissioner or it has been made the subject of an appeal to the Commissioner (Appeals) or to the Appellate Tribunal.

(4) No application under sub-section (1) shall lie unless-

(a) it is accompanied by a fee of two hundred taka; and

(b) the undisputed portion of the tax has been paid.

***Explanation*.-** The "undisputed portion of the tax" means the tax payable under section 74.

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[1] *Ins. by F.A. 2009*

(5) For the purposes of this section, an order by the Commissioner declining to interfere shall not be construed as an order prejudicial to the assessee.

(6) Notwithstanding anything contained in this Ordinance, an application for revision made under sub-section (1) shall be deemed to have been allowed if the Commissioner fails to make an order thereon within a period of sixty days from the date of filing the application.

Explanation.- For the purposes of this section, the Appellate Joint Commissioner of Taxes shall be deemed to be an authority subordinate to the Commissioner to whom the Deputy Commissioner of Taxes, whose order was the subject-matter of the appeal order under revision, is subordinate.]

122. Power to take evidence on oath, etc.- (1) The Deputy Commissioner of Taxes, the Joint Commissioner of Taxes, the Commissioner, [1][the Director General, Central Intelligence Cell,] the Commissioner (Appeals) and the Appellate Tribunal shall, for the purposes of this Ordinance, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely:-

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath or affirmation;

(c) compelling the production of accounts or documents (including accounts or documents relating to any period prior or subsequent to the income year); and

(d) issuing commissions for the examination of witness.

(2) The Deputy Commissioner of Taxes shall not exercise his powers under this section for the purpose of enforcing the attendance of an employee of a scheduled bank as a witness or compelling the production of books of account of such a bank except with the prior approval of the Commissioner.

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[1] *Subs by F.A. 2010*

(3) Any authority mentioned in sub-section (1) may impound and retain in its custody for such period as it considers fit, any books of accounts or other documents produced before it in any proceeding under this Ordinance.

(4) Any proceeding under this Ordinance, before any authority mentioned in sub-section (1), shall be deemed to be a judicial proceeding within the meaning of section 193 and 228, and for the purposes of section 196, of the Penal Code (Act XLV of 1860).

CHAPTER XV
IMPOSITION OF PENALTY

[1]**[123. Penalty for not maintaining accounts in the prescribed manner-**(1) Where any person, not having income from house property, has, without reasonable cause, failed to comply with the provisions of any order or rule made in pursuance of, or for the purposes of section 35(2), the Deputy Commissioner of Taxes, may impose upon him a penalty at the rate of a sum not exceeding-

(a) one and a half times the amount of tax payable by him;

(b) one hundred Taka where the total income of such person does not exceed the maximum amount on which tax is not chargeable.

(2) Where any person, having income from house property, has, without reasonable cause, failed to comply with the provisions of any order or rule made in pursuance of, or for the purposes of section 35(2), the Deputy Commissioner of Taxes, shall impose upon him a penalty of fifty percent of taxes payable on house property income or five thousand taka, whichever is higher.]

[2]**[124. Penalty for failure to file return, etc.-** (1) Where any person has, without reasonable cause, failed to file a return of income required by or under sections 75, 77, 89(2),91(3) [3][, 93(1) and or withholding tax required under section 75A], the Deputy Commissioner of Taxes may impose upon such person a penalty amounting to ten per cent of tax imposed on last assessed income subject to a minimum of [4][taka one thousand,] and in the case of a continuing default a further penalty of [5][taka fifty] for every day during which the default continues.

(2) Where any person has, without reasonable cause, failed to file or furnish or, as the case may be, obtain and display within the time laid down therefor,-

(a) any certificate, statement, accounts or information required by or under sections 58, 108, 109, [6][or] 110 ; or [7][***]

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[1] *Subs. by F.A. 2014*

[2] *Subs. by F.A 1999 and re-subs by F. A. 2004*

[3] *Subs. F.A. 2011*

[4] *Subs. for "taka two thousand five hundred" by F.O. 2007*

[5] *Subs. for "taka two hundred and fifty" by F.O 2007*

[6] *Subs for "," by F.O 2007*

[7] *Omitted by F.A. 2007*

(b) the tax-payer's identification number (TIN) certificate under section 184C;

the Deputy Commissioner of Taxes shall impose upon such person a penalty of taka five hundred and in the case of a continuing default a further penalty of taka two hundred and fifty for every month or fraction thereof during which the default continues [1][:

Provided that where any person has, without any reasonable cause, failed to furnish information as required under section 113, the [2][***] Director General, Central Intelligence Cell or the Deputy Commissioner of Taxes may impose a penalty of taka twenty five thousand and in case of a continuing default a further penalty of taka five hundred for each day.]

[3]**[124A. Penalty for using fake Tax-payer's Identification Number.-** Where a person has, without reasonable cause, used Tax-payer's Identification Number (TIN) of another person or used fake TIN on a return of income or any other documents where TIN is required under this Ordinance, the Deputy Commissioner of Taxes may impose a penalty not exceeding taka twenty thousand on that person.]

125. Failure to pay advance tax, etc.- Where, in the course of any proceeding in connection with the assessment of tax under Chapter IX, the Deputy Commissioner of Taxes is satisfied that any person has-

(a) without reasonable cause, failed to pay advance tax as required by section 64; or

(b) furnished under section 67 any estimate of tax payable by him which he knew, or had reason to believe, to be untrue,

he may impose upon such person a penalty of a sum not exceeding the amount by which the tax actually paid by him falls short of the amount that should have been paid.

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[1] Subs. "colon" for "full-stop" and ins new proviso by F.O. 2007

[2] Omitted "Deputy" by F.A. 2013

[3] Ins. new section 124A by F.A. 2010

126. Penalty for non-compliance with notice.- Where any person has, without reasonable cause, failed to comply with any notice issued under sections 79, 80 [1][or under sub-section (1) or (2) of section 83] the Deputy Commissioner of Taxes may impose on him a penalty not exceeding the amount of tax chargeable on the total income of such person.

127. Failure to pay tax on the basis of return.- Where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes is satisfied that any person has not paid tax as required by section 74, or the tax paid by him under that section is less than eighty percent of the amount payable thereunder, he may impose upon such person a penalty of a sum not exceeding twenty-five percent of the whole of the tax or as the case may be, of such portion of the tax as has not been paid.

128. Penalty for concealment of income.- (1) Where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes, the Appellate Joint Commissioner, [2][the Commissioner (Appeals)] or the Appellate Tribunal is satisfied that any person has, either in the said proceeding or in any earlier proceeding relating to an assessment in respect of the same income year,-

(a) concealed particulars of his income or furnished inaccurate particulars of such income; or

(b) understated the value of any immovable property in connection with its sale or transfer with a view to evading tax, [3][he or it shall impose upon such person a penalty of [4][fifteen per cent] of tax which would have been avoided had the income as returned by such person or as the case may be, the value of the immovable property as stated by him been accepted as correct:

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[1] Subs. for "or 83" by F.A. 1991
[2] Ins by F.A. 1991
[3] Subs. for "he or it may impose upon such person a penalty of a sum not exceeding two and a half times the amount" by F.O. 2008
[4] Subs. for ten percent by F.A. 2014

[1][Provided that if concealment referred to in clause (a) and (b) of this sub-section or sub-section (2) is detected after a period of more than one year from the year in which the concealment was first assessable to tax, the amount of penalty shall increase by an additional [2][fifteen per cent] for each preceding assessment year.]

*[3][(Proviso)***]*

(2) For the purpose of sub-section (1), concealment of particulars of income or furnishing of inaccurate particulars of income shall include-

(a) the suppression of any item of receipt liable to tax in whole or in part, or

(b) showing any expenditure not actually incurred or claiming any deduction therefor.

[4][(2A)***]

[5][(3)***]

[6]**[(129.)***]**

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[1] Ins by F.A. 1999 and subs. by F.O. 2008
[2] Subs. for " ten per cent" by F.A. 2014
[3]Proviso omitted by F.A 1995
[4] Isn by F.A. 1998, omitted by F.A. 1999
[5] Ins. by F.A. 1991, omitted by F.A. 1993
[6] *Omitted by F.A. 1998*

[1]**[129A. Penalty for incorrect or false audit report by chartered accountant.-** Where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes, the Appellate Joint Commissioner, the Commissioner of Taxes (Appeals) or the Appellate Tribunal is satisfied beyond reasonable doubt that the audit report-

(a) is not certified by a chartered accountant to the effect that the accounts are maintained according to the Bangladesh Accounting Standard (BAS) and reported in accordance with the Bangladesh Financial Reporting Standard (BFRS), or

(b) is false or incorrect,

he shall impose upon such chartered accountant a penalty of a sum not less than fifty thousand taka but not more than two lakh taka.]

130. Bar to imposition of penalty without hearing.- No order imposing a penalty under this Chapter shall be made on any person unless such person has been heard or has been given a reasonable opportunity of being heard.

131. Previous approval of Inspecting Joint Commissioner for imposing penalty.- The Deputy Commissioner of Taxes shall not impose any penalty under this Chapter without the previous approval of the Inspecting Joint Commissioner except in the cases referred to in section 124 [2]*[*.

*(Proviso)***]*

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[1]*Ins.new section by F.A. 2014*

[2] *Subs. full-stop for semi- colon and proviso by F.A. 1998 subsequently omitted by F.A 1999*

[1]**[(131A.)***]**

132. Orders of Appellate Joint Commissioner, etc., to be sent to Deputy Commissioner of Taxes.- The Appellate Joint Commissioner, [2][or the Commissioners (Appeals)] or the Appellate Tribunal making an order imposing any penalty under this Chapter shall forthwith send a copy of the order to the Deputy Commissioner of Taxes, and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if such order were made by the Deputy Commissioner of Taxes.

133. Penalty to be without prejudice to other liability.- The imposition on any person of any penalty under this Chapter shall be without prejudice to any other liability which such person may incur, or may have incurred, under this Ordinance or under any other law for the time being in force.

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[1] *Ins. by F.A. 1991 and omitted by F.A. 1996*
[2] *Ins by F.A. 1990*

CHAPTER XVI
RECOVERY OF TAX

134. Tax to include penalty, interest, etc.- For the purposes of this Chapter, "tax" includes any sum imposed, levied or otherwise payable under this Ordinance as penalty, fine, interest, fee or otherwise; and the provisions of this chapter shall accordingly apply to the recovery of any such sum.

135. Notice of demand.- (1) Where any tax is payable in consequence of any assessment made or any order passed under or in pursuance of this Ordinance, the Deputy Commissioner of Taxes shall serve upon the assessee (which expression includes any other person liable to pay such tax) a notice of demand in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order.

[1][(1A) Where any amount of tax is refundable in consequence of any order, [2][***]the Deputy Commissioner of Taxes shall specify in the notice referred to in sub-section (1) the sum refundable to the assessee together with a copy of an assessment order and a refund voucher unless such refund is set off against tax as per provision of section 152.]

[3][(1B) The Deputy Commissioner of Taxes shall not set off without giving the assessee an opportunity of being heard and in that case refund voucher for the amount due for refund, if any, shall be issued within a period not exceeding thirty days from the date of assessment.

(1C) Where the Deputy Commissioner of Taxes fails to issue refund voucher for any refund due to an assessee within the time specified in this section, such failure on the part of the Deputy Commissioner of Taxes shall be construed as misconduct.]

(2) Where the assessee upon whom a notice of demand has been issued under sub section (1) makes an application in this behalf before the expiry of the date of payment specified in the notice, the Deputy Commissioner of Taxes may extend the time for payment or allow payment by installments subject to such conditions, including payment of interest on the amount payable, as he may think fit in the circumstances of the case.

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[1] *Ins by F.A. 2000*
[2] *Deleted F.O. 2008*
[3] *Ins by F.A 2002*

(3) If the sum payable is not paid within the time specified in the notice of demand issued under sub-section (1) or, as the case may be, within the time as extended under sub-section (2), the assessee shall be deemed to be in default:

Provided that where the assessee has presented an appeal under this Ordinance in respect of the assessment of imposition of the tax or of the amount thereof, [1][the Deputy Commissioner of Taxes shall] treat the assessee as not being in default for so long as such appeal is not disposed of.

(4) If, in a case where payment by installment has been allowed under sub-section (2), the assessee commits default in paying any one of the installments within the time fixed therefor, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other installment or installments shall be deemed to have been due on the same date as the installment in respect of which default has actually been committed was due for payment.

(5) Where an assessee has been assessed in respect of income arising outside Bangladesh in a country the laws of which prohibit or restrict the remittance of money to Bangladesh, the Deputy Commissioner of Taxes shall not treat the assessee as in default in respect of that part of the tax which is due in respect of such amount of income as cannot, by reason of the prohibition or restriction, be brought into Bangladesh, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.-For the purposes of this section, income shall be deemed to have been brought into Bangladesh if it has been or could have been utilized for the purposes of any expenditure actually incurred by the assessee outside Bangladesh or if the income, whether capitalized or not, has been brought into Bangladesh in any form.

[2]**[(136)***]**

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[1] *Subs. for "the Deputy Commissioner of taxes may, in his discretion," by F.A. 1995*

[2] *Deleted F. A. 1995*

137. Penalty for default in payment of tax.- (1) Where an assessee is in default or is deemed to be in default in making payment of tax, the Deputy Commissioner of Taxes may direct that, in addition to the amount of tax in arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(2) Where, as a result of any final order, the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

138. Certificate for recovery of tax.- (1) When an assessee is in default or is deemed to be in default in making payment of tax, the Deputy Commissioner of Taxes may forward to the Tax Recovery Officer a certificate for recovery of the tax, under his signature specifying the amount of arrears due from the assessee; and such certificate may be issued notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

(2) A certificate under sub-section (1) may be forwarded to-

(a) the Tax Recovery Officer within whose jurisdiction the assessee carried on his business or profession or the principal place of business or profession of the assessee is situate; or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate; or

(c) the Tax Recovery Officer who has jurisdiction in relation to the assessee whose income is assessable by the Deputy Commissioner of Taxes forwarding the certificate.

139. Method of recovery by Tax Recovery Officer.- (1) Upon receipt of a certificate forwarded to him under section 138, the Tax Recovery Officer shall, notwithstanding anything contained in any other law for the time being in force, proceed, in accordance with the rules made in this behalf by the Board, to recover from the assessee the amount specified in the certificate by one or more of the following modes, namely :-

(a) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;

(b) arrest of the assessee and his detention in prison;

(c) appointment of a receiver for the management of the movable and immovable properties of the assessee.

[1][(2) While recovering under sub-section (1) the amount specified in the certificate forwarded to him, the Tax Recovery Officer may also recover in the same manner from the assessee in default, in addition to such amount, any cost and charges, including expenses on the service of any notice or warrant, incurred in the proceedings for the recovery of the tax in arrears.]

(3) If the Tax Recovery Officer to whom a certificate is forwarded under section 138 is not able to recover the entire amount by the sale of movable and immovable properties of the assessee within his jurisdiction, but has information that the assessee has property within the jurisdiction of another Tax Recovery Officer, he may send the certificate to such other Tax Recovery Officer or to the Tax Recovery Officer within whose jurisdiction the assessee resides; and the Tax Recovery Officer to whom the certificate has been so sent shall proceed to recover under this Chapter the amount remaining unrecovered as if the certificate was forwarded to him by the Deputy Commissioner of Taxes.

140.Power of withdrawal of certificate and stay of proceeding.- (1) Notwithstanding the issue of a certificate for recovery under section 138, the Deputy Commissioner of Taxes shall have power to withdraw, or correct any clerical or arithmetical error in the certificate by sending an intimation to that effect to the Tax Recovery Officer.

(2) Where the order giving rise to a demand of tax for which a certificate for recovery has been issued has been modified in appeal or other proceedings under this Ordinance and, as a consequence thereof, the demand is reduced but the order is the subject matter of further proceedings under this Ordinance, the Deputy Commissioner of Taxes shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceedings remain pending.

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[1] *Subs by F.O. 2008*

(3) Where a certificate for recovery has been issued and subsequently the amount of outstanding demand is reduced as a result of appeal or other proceedings under this Ordinance, the Deputy Commissioner of Taxes shall, when the order, which was the subject-matter of such appeal or other proceeding, has become final and conclusive, amend the certificate or withdraw it, as the case may be.

(4) The Deputy Commissioner of Taxes shall communicate to the Tax Recovery Officer any orders of cancellation, correction, stay of proceeding, withdrawal or amendment, as the case may be, of a certificate for recovery.

141.Validity of certificate for recovery not open to dispute.- When the Deputy Commissioner of Taxes forwards a certificate for recovery under section 138 to a Tax Recovery Officer, it shall not be open to the assessee to dispute before the Tax Recovery Officer the correctness of the assessment ; and the Tax Recovery Officer shall not entertain any objection to the certificate on any ground whatsoever.

142.Recovery of Tax through Collector of District.- (1) The Deputy Commissioner of Taxes may forward to the Collector of District in which the office of the Deputy Commissioner of Taxes is situate or the district in which the assessee resides or owns property or carries on business or profession, a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipts of such certificate, shall proceed to recover, from such assessee the amount specified therein as if it were an arrear of land revenue.

(2) Without prejudice to any other powers which the Collector of District may have in this behalf, he shall, for the purposes of recovery of the amount specified in the certificate for recovery forwarded to him under sub-section (1), have the powers which a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of recovery of an amount due under a decree.

(3) The Deputy Commissioner of Taxes may, at any time, recall from the Collector of District a certificate forwarded to him under sub-section (1) and upon such recall, all proceeding commenced in pursuance of the certificate shall abate:

Provided that the recall of a certificate shall not affect any recoveries made by the Collector before the recall as if the certificate had not, to the extent of such recovery, been recalled; nor shall the recall of a certificate issued at any time prevent the recovery, by issue of a fresh certificate, of any amount which was recoverable at the time the certificate so recalled was issued.

[1]**[142A. Recovery of tax through Special Magistrates.-** (1) Without prejudice to the provisions of section 142, the Deputy Commissioner of Taxes may forward to a Magistrate of the First Class, specially empowered in this behalf by the Government, hereinafter referred to as "the Special Magistrate, [2][***] a certificate under his signature specifying the amount of arrears due from the assessee, and the Special Magistrate shall, on receipt of such certificate, proceed to recover from the assessee the amount specified therein as if it were an arrear of land revenue and the Special Magistrate were a Collector of District.

(2) Without prejudice to any other powers of a Collector of District which the Special Magistrate may have in this behalf, he shall, for the purposes of recovery of the amount specified in the certificate for recovery forwarded to him under sub-section (1), have the powers which a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of recovery of an amount due under a decree.

(3) The Deputy Commissioner of Taxes may, at any time, recall from the Special Magistrate a certificate forwarded to him under sub-section (1) and upon such recall, all proceedings commenced in pursuance of the certificate shall abate:

Provided that the recall of a certificate shall not affect any recoveries made by the Special Magistrate before the recall as if the certificate had not, to the extent of such recovery, been recalled; nor shall the recall of a certificate issued at any time prevent the recovery, by issue of a fresh certificate of any amount which was recoverable at the time the certificate so recalled was issued.]

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[1] *Ins by F.A. 1993*
[2] *Omitted by F.A. 1999*

143. Other modes of recovery.- (1) Notwithstanding the issue of a certificate for recovery of tax under section 138 or section 142, the Deputy Commissioner of Taxes may also recover the tax in the manner provided [1][in sub-section (1A) or (2).]

[2][(1A) For the purpose of recovery of tax payable by an assessee which is not disputed in appeal to any appellate forum, the Deputy Commissioner of Taxes may, with the previous approval of the Commissioner, after giving the assessee an opportunity of being heard, stop movement of any goods and services from the business premises of such assessee and also shutdown such business premises till the recovery of the tax referred to above or any satisfactory arrangement has been made for the recovery of such tax.]

(2) For the purposes of recovery of any tax payable by an assessee, the Deputy Commissioner of Taxes may, by notice in writing, require any person-

(a) from whom [3][any money or goods] is due or may become due to the assessee, or who holds, or controls the receipt or disposal of, or may subsequently hold, or control the receipt or disposal of, [4][any money or goods] belonging to, or on account of, the assessee, to pay to the Deputy Commissioner of Taxes the sum specified in the notice on or before the date specified therein for such payment; or

(b) who is responsible for payment of any sum to the assessee classifiable as income of the assessee under the head "Salaries", to deduct from any payment subsequent to the date of the notice, any arrear of tax due from the assessee, and to pay the sum so deducted to the credit of the Government.

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[1] *Subs for "in sub-section (2)" by F.A. 1999*
[2] *Ins by F.A. 1999*
[3] *Subs for " any money" by F.A 1999*
[4] *Subs for " any money" by F.A 1999*

(3) A person who has paid any sum as required by sub-section (2) (a) shall be deemed to have paid such sum under the authority of the assessee and the receipt by the Deputy Commissioner of Taxes shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the sum specified in the receipt.

(4) A person who has deducted any sum as required by sub-section (2) (b) shall be deemed to have deducted the tax under section 50 and the relevant provisions of Chapter VII shall apply accordingly.

(5) If the person to whom a notice under sub-section (2) is sent fails to make payment or to make deductions in pursuance of the notice, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and proceedings may be taken against him for realisation of the amount as if it were an arrear of tax due from him; and the provisions of this Chapter shall apply accordingly.

(6) The Deputy Commissioner of Taxes may at any time amend or revoke any notice issued under sub-section (2) or extend the time for making any payment in pursuance of such notice.

(7) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipa1 tax or local rate imposed under any enactment for the time being in force in any part of Bangladesh, the Deputy Commissioner of Taxes may proceed to recover the amount due by such process.

(8) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (7).

Explanation.- For the removal of doubts it is hereby clarified that the several modes of recovery specified in this Chapter are neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Deputy Commissioner of Taxes, if for any special reasons to be recorded by him, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode.

CHAPTER XVII
DOUBLE TAXATION RELIEF

144. Agreement to avoid double taxation.- (1) The Government may enter into an agreement with the Government of any other country for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income leviable under this Ordinance and under the corresponding law in force in that country, and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where any such agreement as is referred to in sub-section (1) is made with the Government of any country, the agreement and the provisions made for implementing it shall, notwithstanding anything contained in any other law for the time being in force, have effect in so far as they provide for-

(a) relief from the tax payable under this Ordinance;

(b) determining the income accruing or arising, or deemed to be accruing or arising, to non-residents from sources within Bangladesh;

(c) where all the operations of business or profession are not carried on within Bangladesh, determining the income attributable to operations carried on within or outside Bangladesh, or the income chargeable to tax in Bangladesh in the hands of non-residents, including their agencies, branches or establishments in Bangladesh;

(d) determining the income to be attributable to any person resident in Bangladesh having any special relationship with a non-resident;

(e) recovery of tax leviable under this Ordinance and under the corresponding law in force in that country; or

(f) exchange of information for the prevention of fiscal evasion or avoidance of tax on income chargeable under this Ordinance and under the corresponding law in force in that country.

(3) Any agreement made in pursuance of sub-section (1) may include provisions for relief from tax for any period before the commencement of this Ordinance or before the making of the agreement and provisions as to income which are not themselves subject to double taxation.

(4) The provisions of the Seventh Schedule shall have effect where an agreement under this section provides that the tax payable under the laws of the country concerned shall be allowed as a credit against the tax payable in Bangladesh.

145. Relief in respect of income arising outside Bangladesh.- If any person who is resident in Bangladesh in any year proves to the satisfaction of the Deputy Commissioner of Taxes that, in respect of any income which has accrued or arisen to him during that year outside Bangladesh, he has paid tax, by deduction or otherwise, in any country with which there is no reciprocal agreement for relief or avoidance of double taxation, the Deputy Commissioner of Taxes may, subject to such rules as the Board may make in this behalf, deduct from the tax payable by him under this Ordinance a sum equal to the tax calculated on such doubly taxed income at the average rate of tax of Bangladesh or the average rate of tax of the said country, whichever is the lower.

Explanation.-The expression "average rate of tax" means the rate arrived at by dividing the amount of tax calculated on the total income by such income.

CHAPTER XVIII
REFUNDS

146. Entitlement to refund.- (1) A person, who satisfies the Deputy Commissioner of Taxes or other authority appointed by the Government in this behalf that the amount of tax paid by him or on his behalf, or treated as paid by him or on his behalf, for any year exceeds the amount with which he is properly chargeable under this Ordinance for that year, shall be entitled to a refund of any such excess.

(2) Where the income of the person is included under any provision of this Ordinance in the total income of any other person, such other person alone shall be entitled to a refund under this chapter in respect of such income.

147. Claim of refund for deceased or disabled persons.- Where through death, incapacity, insolvency, liquidation or other cause, a person, is unable to claim or receive any refund due to him, his legal representative, or the trustee, guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

148. correctness of assessment, etc., not to be questioned.- In any claim for refund under this chapter, it shall not be open to the claimant to question the correctness or validity of any assessment or other matter which has become final and conclusive or to ask for a review of the same, and the claimant shall not be entitled to any relief on any such issue raised except refund of the tax paid in excess.

149. Refund on the basis of orders in appeal.- Where, as a result of any order passed in appeal or other proceeding under this Ordinance, refund of any amount becomes due to an assessee, the Deputy Commissioner of Taxes shall, [1][refund the amount, unless set off against tax or treated as payment of tax as per provisions of section 152,] to [2][the assessee, [3][within sixty days] from the date on which the refund has become due] without his having to make any claim in that behalf.

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[1] *Subs. for "except as otherwise provided in this Ordinance, refund the amount" by F.A. 1995*
[2] *Subs. for "the assessee" by F.A. 1992 re-subs. for "within thirty days" by F.A. 1996*
[3] *Subs. for the words "within thirty days" by F.A. 1996*

150. Form of claim and limitation.- (1) Every claim for refund [1][under sections 146 and 147] shall be made in such form and verified in such manner as may be prescribed.

[2][(2)***]

151. Interest on delayed refund.- Where a refund due to an assessee is not paid within two months of the date of the [3][***] [4][claim for refund, or refund becoming due consequent upon any order passed in appeal or other proceeding under this Ordinance] interest at the rate of [5][seven and a half per cent] per annum shall be payable to the assessee on the amount of refund from the month following the said two months to the date of issue of the refund.

152. Adjustment of refund against tax.- Where, under the provisions of this Ordinance, the Income-tax Act,1922 (XI of 1922), the Gift-tax Act, 1963 (XIV of 1963), or the Wealth-tax Act,1963 (XV of 1963), any refund or repayment is found to be due to any person, the amount to be refunded or repaid or any part thereof may be set off against the tax, payable by that person under this Ordinance [6][or treated, at the option in writing of that person, as payment of tax payable under section 64 or section 74 thereof.]

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[1] *Subs. for the words "under this chapter" by F.A. 1997*
[2] *Omitted by F. A. 2002*
[3] *Omitted by F. A. 1995*
[4] *Ins. by F.A. 1996*
[5] *Subs. for "ten per cent." by F.A. 1995*
[6] *Ins by F.A. 1992*

[1][CHAPTER XVIIIA
SETTLEMENT OF CASES

[(152A.)*]**
[(152B.)*]**
[(152C.)*]**
[(152D.)*]**
[(152E.)*]**

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[1] *CHAPTER XVIIIA omitted by F.A. 2002*

[1][Chapter XVIIIB
ALTERNATIVE DISPUTE RESOLUTION

152F. Alternative Dispute Resolution.- (1) Notwithstanding anything contained in Chapter XIX any dispute of an assessee lying with any income tax authority, Taxes Appellate Tribunal or Court may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in the manner described in the following sections of this Chapter and rules made thereunder.

(2) Board may, by notification in the official Gazette, specify the class or classes of assessees eligible for ADR or extend the area or areas in which these provisions may be applied.

152G. Commencement of ADR.- The ADR as mentioned in this Chapter shall come into force on such date and in such class or classes of assessees as the Board may determine by notification in the official Gazette.

152H. Definition.- For the purposes of this Chapter, unless the context otherwise requires-

(a) "authorised representative" means an authorised representative mentioned in sub-section (2) of section 174;

(b) "bench" means bench of Taxes Appellate Tribunal;

(c) "Commissioner's Representative" means an officer or officers nominated by the Commissioner of Taxes from among the income tax authorities under section 3 to represent in the Alternative Dispute Resolution process under this Chapter;

(d) "court" means the Supreme Court;

(e) "dispute" means an objection of an assessee regarding-

(i) assessment of income above the income declared by him in his return of income for the relevant year, or

(ii) order of an appellate authority under chapter XIX which results in assessment of income which is above the declared amount in his return of income;

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[1] *Ins. new chapter XVIIIB by F.A. 2011*

152I.Application for alternative resolution of disputes.- (1) Notwithstanding anything contained in Chapter XIX an assessee, if aggrieved by an order of an income tax authority, may apply for resolution of the dispute through the ADR process.

(2) An assessee may apply for ADR of a dispute which is pending before any income-tax authority, tribunal or court.

(3) All cases dealt with under sub-section (2) are subject to permission of the concerned incometax authority or the court, as the case may be:

Provided that after obtaining such permission from the income tax authority, Tribunal or the court and upon granting of such permission, the matter shall remain stayed during the ADR negotiation process.

(4) The application shall be submitted in such form, within such time, accompanied with such fees and verified in such manner as may be prescribed.

(5) The application is to be submitted to the respective Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals) or Taxes Appellate Tribunal, as the case may be.

(6) In the case of a dispute pending before either Division of the Supreme Court, the assessee shall obtain the permission of the court prior to filing an application under sub-section (2), by filing an application before the court which, upon such an application being made before it, may pass an order allowing the matter to proceed to ADR, or otherwise as it deems fit.

[1][**152II. Stay of proceeding in case of pending appeal or reference at Appellate Tribunal or High Court Division.-** Where an assessee has filed an application for ADR for any income year and for the same income year, the Deputy Commissioner of Taxes has filed an appeal before the Appellate Tribunal or the Commissioner has made a reference before the High Court Division and no decision has been made in that respect by the Appellate Tribunal or High Court Division as the case may be, the proceeding of such appeal or reference shall remain stayed till disposal of the application for ADR.]

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[1] *Ins. new section 152II by F. A. 2012*

152J. Eligibility for application for ADR.- An assessee shall not be eligible for application to ADR if he fails to-

(a) submit the return of income for the relevant year or years; or

(b) pay tax payable under section 74.

152K. Appointment of Facilitator and his duties and responsibilities.- For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his [1][fees,] duties and responsibilities by rules.

152L. Rights and duties of the assessee for ADR.- (1) Subject to sub-section (2), the assessee applying for ADR shall be allowed to negotiate himself personally or alongwith an authorized representative, with the Commissioner's Representative for the concerned dispute under the facilitation and supervision of the Facilitator.

(2) The Facilitator may exempt the applicant-assessee from personally attending the negotiation process and may be allowed to represent himself by an authorised representative, if he has sufficient reasons for his absence.

(3) While submitting an application for ADR, the applicant-assessee shall submit all related papers and documents, disclose all issues of law and facts.

(4) The applicant-assessee shall be cooperative, interactive, fair and bonafide while negotiating for resolution.

(5) If the applicant-assessee makes any untrue declaration, submits any false document and obtains an order or assessment on that basis, the order or assessment shall be set aside, if so detected, and appropriate legal action be initiated against him.

(6) The applicant-assessee shall be liable to pay any taxes, if due as a result of negotiation with the time frame as decided in the ADR.

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[1] *Subs. by F. A. 2012*

152M. Nomination and responsibility of the Commissioner's Representative in ADR.- (1) The respective Commissioner of Taxes may nominate any income tax authority subordinate to him, not below the rank of Deputy Commissioner of Taxes to represent him in the negotiation process of the ADR.

(2) The representative so nominated under sub-section (1) shall attend the meeting(s) of ADR negotiation process and sign the agreement of such negotiation process, where an agreement is reached.

152N. Procedures of disposal by the Alternative Dispute Resolution.- (1) Upon receiving the application of ADR, the Facilitator shall forward a copy of the application to the respective Deputy Commissioner of Taxes and also call for his opinion on the grounds of the application and also whether the conditions referred to in sections 152I and 152J have been complied with.

(2) If the Deputy Commissioner of Taxes fails to give his opinion regarding fulfillment of the conditions within [1][five working days] from receiving the copy mentioned in clause (c) of sub-section (3), the Facilitator may deem that the conditions thereto have been fulfilled.

(3) The Facilitator may-

(a) notify in writing the applicant and the Commissioner of Taxes or the Commissioner's Representative to attend the meetings for settlement of disputes on a date mentioned in the notice;

(b) if he considers it necessary to do so, adjourn the meeting from time to time;

(c) call for records or evidences from the Deputy Commissioner of Taxes or from the applicant before or at the meeting, with a view to settle the dispute; and

(d) before disposing of the application, cause to make such enquiry by any income-tax authority as he thinks fit.

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[1] *Subs for the words "fifteen days" by F. A. 2012*

(4) The Facilitator will assist the applicant-assessee and the Commissioner's Representative to agree on resolving the dispute or disputes through consultations and meetings.

152O. Decision of the ADR.- (1) A dispute, which is subject to this Ordinance, may be resolved by an Agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute.

(2) Where an agreement is reached, either wholly or in part, between the assessee and the Commissioner's Representative, the Facilitator shall record, in writing, the details of the agreement in the manner as may be prescribed.

(3) The recording of every such agreement shall describe the terms of the agreement including any tax payable or refundable and any other necessary and appropriate matter, and the manner in which any sums due under the agreement shall be paid and such other matters as the Facilitator may think fit to make the agreement effective.

(4) The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation of facts.

(5) The agreement shall be signed by the assessee and the Commissioner's Representative and the facilitator.

(6) Where no agreement, whether wholly or in part, is reached or the dispute resolution is ended in disagreement between the applicant-assessee and the concerned Commissioner's Representative for non-cooperation of either of the parties, the Facilitator shall communicate it, in writing recording reasons thereof, within fifteen days from the date of disagreement, to the applicant and the Board, the concerned court, Tribunal, appellate authority and income tax authority, as the case may be, about such unsuccessful dispute resolution.

(7) Where the agreement is reached, recorded and signed accordingly containing time and mode of payment of payable dues or refund, as the case may be, the Facilitator shall communicate the same to the assessee and the concerned Deputy Commissioner of Taxes for compliance with the agreement as per provisions of this Ordinance.

(8) No agreement shall be deemed to have been reached if the Facilitator fails to make an agreement within [1][two months] from the end of the month in which the application is filed.

(9) Where there is a successful agreement, the Facilitator shall communicate the copy of the agreement to all the parties mentioned in sub-section (6) within fifteen days from the date on which the Facilitator and the parties have signed the agreement.

152P. Effect of agreement.- (1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is reached, under sub-section (9) of section 152O, it shall be binding on both the parties and it cannot be challenged in any authority, Tribunal or court either by the assessee or any other income tax authority.

(2) Every agreement, concluded under section 152O shall be conclusive as to the matters stated therein and no matter covered by such agreement shall, save as otherwise provided in this Ordinance, be reopened in any proceeding under this Ordinance.

152Q. Limitation for appeal where agreement is not concluded.- (1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is not reached under this Chapter, wholly or in part, the assessee may prefer an appeal-

(a) to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be, where the dispute arises out of an order of a Deputy Commissioner of Taxes;

(b) to the Taxes Appellate Tribunal where the dispute arises out of an order of the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be; and

(c) to the respective appellate authority or court from where the assessee-applicant has got permission to apply for ADR.

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[1] *Subs F. A. 2012*

(2) In computing the period of limitations for filing appeal, the time elapsed between the filing of the application and the decision or order of the ADR shall be excluded.

152R. Post verification of the agreement.- (1) The Board may monitor the progress of disposal of the application for ADR in the manner as may be prescribed and ensure necessary support and coordination services.

(2) Copies of all agreement or matter of disagreement shall be sent by the Facilitator to the respective Commissioner and Board for verification and ascertainment of whether the agreement is legally and factually correct.

(3) After receiving the copy of agreement or matter of disagreement, if it appears to the Board that the alleged agreement is obtained by fraud, misrepresentation or concealment of fact causing loss of revenue, then such agreement shall be treated as void and the matter shall be communicated to the concerned authorities, Tribunal or court for taking necessary action.

152S. Bar on suit or prosecution.- No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith.]

CHAPTER XIX
APPEAL AND REFERENCE

153. Appeal against order of Deputy Commissioner of Taxes [1][and Inspecting Joint Commissioner].- (1) Any [2][assessee, not being a company, aggrieved] by any order of a Deputy Commissioner of Taxes in respect of the following may prefer an appeal to the Appellate Joint Commissioner against such order, namely;-

(a) the amount of loss computed under section 37 ;

(b) assessment of income, determination of liability to pay, or computation of tax including advance tax;

(c) imposition of interest under section 73 ;

(d) refusal to register a firm or cancellation of registration under section 84 or 111 ;

[3][(e) imposition of penalty under section [4][124, 125, 126, 127, [5][128] or 137]; and]

(f) refusal to allow a claim to a refund or the determination of the amount of refund admissible under Chapter XVIII.

[6][(1A) Any assessee, being a company, aggrieved by any order of a Deputy Commissioner of Taxes or [7][any assessee aggrieved by any order] of an Inspecting Joint Commissioner in respect of the following may prefer an appeal to the Commissioner (Appeals) against such order, namely:-

(a) any matter specified in clauses (a), (b), (c) and (f) of sub-section (1);

(b) imposition of penalty under Chapter XV [8][or section 137];

(c) assessment under section 10 or 120.

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[1] Ins. by F.A. 1990
[2] Subs. for " assessee aggrieved" by F.A. 1990
[3] Subs by F.A. 1990
[4] Subs. for "section 89, 124, or 137" by F.A. 1991
[5] Ins. by F.A. 1995
[6] Ins. by F.A. 1990
[7] Ins. by F.A. 1993
[8] Ins. by F.A. 1991

(1B) Notwithstanding anything contained in any other law for the time being in force, all such appeals pending before an Appellate Joint Commissioner at the time of the commencement of অর্থ আইন, ১৯৯০ (আইন নং-৪৫, ১৯৯০) as are appellable under this section to a Commissioner (Appeals) shall be heard and disposed of by the Appellate Joint Commissioner as if this section were not amended by অর্থ আইন, ১৯৯০ ।

(1C) Notwithstanding anything contained in sub-section (1) or (1A), the Board may, on an application or on its own motion, transfer an appeal from an Appellate Joint Commissioner to a Commissioner (Appeals) or from a Commissioner (Appeals) to an Appellate Joint Commissioner.]

(2) Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Joint Commissioner against the order of the Deputy Commissioner of Taxes determining the amount of total income or loss of the firm or the apportionment thereof between several partners but he may not agitate in any such appeal, matters relating to assessment of his own total income.

[1][(3) No appeal shall lie against any order of assessment under this section, unless the tax payable on the basis of return under section 74 has been paid before filing that appeal.]

[2]*[***]*

[3][(4) No appeal shall lie against any order of assessment under this section, unless the assessee has paid ten percent of the tax as determined by the Deputy Commissioner of Taxes where return of income was not filed in accordance with the provisions of this Ordinance.]

154. Form of appeal and limitation.- (1) Every appeal under section 153 shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of [4][two hundred taka].

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[1] *Subs. by F.A. 2000*
[2] *Omitted by F.A. 1999*
[3] *Ins. new sub-section (4) by F.A. 2012*
[4] *Subs for "one hundred taka" by F.A. 1993*

(2) Subject to sub-section (3), an appeal shall be presented within [1][forty five days],-

(a) if it relates to any assessment or penalty, from the date of service of the notice of demand relating to the assessment or penalty, as the case may be ; and

(b) in any other case, from the date on which the intimation of the order to be appealed against is served.

(3) The Appellate Joint Commissioner [2][or the Commissioner (Appeals), as the case may be,] may admit an appeal after the expiration of the period of limitation specified in sub-section (2) if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

155. Procedure in appeal before the Appellate Joint Commissioner [3][or the Commissioner (Appeals)].- (1) The Appellate Joint Commissioner [4][or the Commissioner (Appeals)] shall fix a day and place for the hearing of the appeal and give notice thereof to the appellant and the Deputy Commissioner of Taxes against whose order the appeal has been preferred.

(2) The appellant and the Deputy Commissioner of Taxes shall have the right to be heard at the hearing of the appeal either in person or by a representative.

(3) The Appellate Joint Commissioner [5][or the Commissioner (Appeals)] may, if he considers it necessary to do so, adjourn the hearing of the appeal from time to time.

(4) The Appellate Joint Commissioner [3][or the Commissioner (Appeals)] may, before or at the hearing of an appeal, allow the appellant to go into any ground of appeal not earlier specified in the grounds of appeal already filed if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

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[1] *Subs. for "thirty days " by F.A. 1995 and re-subs for "sixty days" by F.A. 2006*
[2] *Ins. by F.A. 1990*
[3] *Ins. " or the commissioner (Appeals)" after "Appellate Joint Commissioner" everywhere of section 155 by F.A. 1990*
[4] *Ins. by F.A. 1990*
[5] *Ins. " or the commissioner (Appeals)" after "Appellate Joint Commissioner" everywhere of section 155 by F.A. 1990*

(5) The Appellate Joint Commissioner [1][or the Commissioner (Appeals)] may, before or at the hearing of an appeal, make such enquiry as he thinks fit or call for such particulars as he may require respecting the matters arising in appeals or cause further enquiry to be made by the Deputy Commissioner of Taxes.

(6) While hearing an appeal the Appellate Joint Commissioner [1][or the Commissioner (Appeals)] shall not admit any documentary material or evidence which was not produced before the Deputy Commissioner of Taxes unless he is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Deputy Commissioner of Taxes.

156. Decision in appeal by the Appellate Joint Commissioner [2][or the Commissioner (Appeals)].- (1) In disposing of an appeal, the Appellate Joint Commissioner [or the Commissioner (Appeals)] may,-

(a) in the case of an order of assessment, confirm, reduce, enhance, set aside or annul the assessment;

(b) in the case of an order imposing a penalty, confirm, set aside or cancel such order or vary it so as either to enhance or to reduce the penalty; and

(c) in any other case, pass such order as he thinks fit [3][:

Provided that an order of assessment or penalty shall not be set aside except in a case where the Appellate Joint Commissioner or the Commissioner (Appeals) is satisfied that a notice on the assessee has not been served in accordance with the provisions of section 178.]

(2) The Appellate Joint Commissioner [or the Commissioner (Appeals)] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.

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[1] *Ins " or the Commissioner (Appeals)" after " Appellate Joint Commissioner" everywhere of section 155 by F.A. 1990*

[2] *Ins " or the Commissioner (Appeals)" after " Appellate Joint Commissioner" everywhere of section 156 by F.A. 1990*

[3] *Ins by F.A. 1994*

(3) The order of the Appellate Joint Commissioner [or the Commissioner (Appeals)] disposing of an appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(4) Where, as a result of an appeal, any change is made in the assessment of a firm or an association of persons, the Appellate Joint Commissioner [or the Commissioner (Appeals)] may direct the Deputy Commissioner of Taxes to amend accordingly any assessment made on any partner of the firm or any member of the association.

(5) On the disposal of an appeal, the Appellate Joint Commissioner [or the Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the Deputy Commissioner of Taxes and the Commissioner [1][within [2][thirty days of the passing of such order.]

(6) Notwithstanding anything contained in this Ordinance, an appeal to the Appellate Joint Commissioner [or the Commissioner (Appeals)] shall be deemed to have been allowed if the Appellate Joint Commissioner [or the Commissioner (Appeals)] fails to make an order thereon within [3][[4][one hundred and fifty days from the end of the month] on which the appeal was filed].

157. Appeal against order of Tax Recovery Officer.- Any person aggrieved by an order of the Tax Recovery Officer under section 139 may, within thirty days from the date of service of the order, appeal to the Inspecting Joint Commissioner to whom the Tax Recovery Officer is subordinate, and the decision of the Inspecting Joint Commissioner on such appeal shall be final.

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[1] *Ins by F.A. 1994*

[2] *Subs for "fifteen days" by F.O. 2007.*

[3] *Subs. for the words " a period of one year from the end of the month in which the appeals was filed." by F.A. 2002*

[4] *Subs. for "ninety days from the date" by F.O. 2007 again subs. for "ninety days form the end of the month" by F.A 2009*

158. Appeal to the Appellate Tribunal.- (1) An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of-

(a) an Appellate Joint Commissioner [or the Commissioner (Appeals)], as the case may be,] under section 128 or 156.

[1][(b)***

(c)***]

[2][(2) No appeal under sub-section (1) shall lie against an order of the Appellate Joint Commissioner or the Commissioner (Appeals), as the case may be, unless the assessee has paid [3][ten percent] of the amount representing the difference between the tax as determined on the basis of the order of the Appellate Joint Commissioner or the Commissioner (Appeals) as the case may be, and the tax payable under section 74 [4][:

Provided that on an application made in this behalf by the assessee, the Commissioner of Taxes, may reduce, the requirement of such payment if the grounds of such application appears reasonable to him.]

[5][(2A)The Deputy Commissioner of Taxes may, [6][with the prior approval of the Commissioner of Taxes,] prefer an appeal to the Appellate Tribunal against the order of an Appellate Joint Commissioner, or the Commissioner (Appeals) under section 156.]

[7][(3)***]

[8][(4) Every appeal under [9][sub-section (1) or sub-section (2A)] [10][***] shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be :

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[1] *Clause (b) & (c) omitted by F.A. 1990*

[2] *Subs. by F.A. 2000 again subs. by F.A. 2002 again subs. by F.A. 2004*

[3] *Subs. for "five percent" by F.A. 2011*

[4] *Subs. "full-stop" for "colon" and proviso omitted by F.O 2007 subsequently subs. "colon" for "ful-stop" and inserted proviso by F.A. 2011*

[5] *Ins. by F.A. 2003*

[6] *Subs. for "with the prior approval of the Board" by F.O. 2008*

[7] *Omitted by F.A. 2002*

[8] *Subs by F.A 1999*

[9] *Subs. for "sub-section (1)" by F.A. 2003*

[10] *Omitted by F.A. 2002*

Provided that the Appellate Tribunal may admit an appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not presenting the appeal within that period.]

(5) An appeal to the Appellate Tribunal shall be in such form and verified in such manner as may be prescribed [1][and shall except in the case of an appeal under sub-section (2A)] [2][***] be accompanied by a fee of [3][one thousand] taka.

159. Disposal of appeal by the Appellate Tribunal.- (1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders on the appeal as it thinks fit.

(2) Before disposing of any appeal, the Appellate Tribunal may call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the Deputy Commissioner of Taxes.

(3) Where, as a result of the appeal, any change is made in the assessment of a firm or association of persons, or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may direct the Deputy Commissioner of Taxes to amend accordingly any assessment made on any partner of the firm or any member of the association.

(4) The Appellate Tribunal shall communicate its order on the appeal [4][to the assessee and to the Commissioner within [5][thirty days] from the date of such order.]

(5) Save as hereafter provided in this Chapter, the orders passed by the Appellate Tribunal on appeal shall be final.

[6][(6) Notwithstanding anything contained in this Ordinance an appeal filed by an assessee to the Appellate Tribunal shall be deemed to have been

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[1] *Subs. for "and shall" by F.A. 2003*
[2] *Omitted by F.A. 2002*
[3] *Subs. for "three hundred" by F.A. 1993 and "five hundred" by F.O. 2007*
[4] *Ins. by F.A. 1997*
[5] *Subs. for "fifteen days" by F.O. 2007*
[6] *Ins. by F.A. 1991*

allowed if the Appellate Tribunal fails to make an order thereon within a period of [1][[2][six months] from the end of the month in which the appeal was filed:]

Provided that the provisions of this sub-section shall not apply to an appeal filed by an assessee at any time before the first day of July, 1991][3][;

Provided further that the provisions of this sub-section shall, in relation to an appeal filed by an assessee at any time during the period between the first day of July, 1995 and the thirtieth day of June, 1996 (both days inclusive), have effect as if for the words "two years" the words "Three years" were substituted on the day on which section 21 of অর্থ আইন, ১৯৯১ (১৯৯১ সালের ২১ নং আইন) came into force][4][:

Provided further that the provisions of this sub-section shall, in relation to an appeal filed by an assessee on or after the first day of July, 1999, have effect as if for the words "two years from the end of the year" the words "two years from the end of the month" were substitute] [5][:

Provided further that the provisions of this sub-section shall in relation to an appeal filed by an assessee before the first day of July, 2002 have effect as if the words "six months from the end of the month in which appeal was filed" were substituted by the words "one year from the end of the year in which appeal was filed:

Provided further that the appeals filed by the Deputy Commissioner of Taxes on or before the thirtieth day of June, 2002 on which no order was passed by the Appellate Tribunal till that date shall be deemed to have been withdrawn from first of July, 2002.]

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[1] *Subs. the words for " two years form the end of the year in which the appeal was filed" by F.A. 2002*

[2] *Subs. for "four months" by F.O. 2007*

[3] *Ins. by F.A. 1999*

[4] *Ins. by F.A. 1998*

[5] *Ins. by F.A. 2002*

160. Reference to the High Court Division.- (1) The assessee or the Commissioner may, [1][within ninety days] from the date of receipt of the order of the Appellate Tribunal communicated to him under section 159, by application in the prescribed from, accompanied, in the case of an application by the assessee, by a fee of [2][two thousand taka], refer to the High Court Division any question of law arising out of such order [3][:

[4][Provided that no reference under sub-section (1) shall lie against an order of the Taxes Appellate Tribunal, unless the assessee has paid the following tax at the rate of-

(a) [5][fifteen] per cent of the difference between the tax as determined on the basis of the order of the Taxes Appellate Tribunal and the tax payable under section 74 where tax demand does not exceed one million taka;

(b) [6][twenty five] per cent of the difference between the tax as determined on the basis of the order of the Taxes Appellate Tribunal and the tax payable under section 74 where tax demand exceeds one million taka:]

Provided further that the Board may, on an application made in this behalf, modify or waive, in any case, the requirement of such payment.]

*[7][(Proviso)***]*

(2) An application under sub-section (1) shall be in triplicate and shall be accompanied by the following documents, namely:-

(a) certified copy, in triplicate, of the order of the Appellate Tribunal out of which the question of law has arisen;

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[1] Subs. for "within sixty days" by F.A. 1999
[2] Subs. the words for "one hundred taka" by F.A. 2002
[3] Ins. by F.A. 2009
[4] Subs. by F.A. 2011
[5] Subs. for "twenty five" by F.A. 2013
[6] Subs. for " fifty" by F.A. 2013
[7] Proviso Ins. by F.A 1989 & 1991 and omitted by F.A. 1995

(b) certified copy, in triplicate, of the order of the Deputy Commissioner of Taxes, the Inspecting Joint Commissioner or the Appellate Joint Commissioner, [1][or the Commissioner (Appeals)], as the case may be, which was the subject-matter of appeal before the Appellate Tribunal; and

(c) certified copy, in triplicate, of any other document the contents of which are relevant to the question of law formulated in the application and which was produced before the Deputy Commissioner of Taxes, the Inspecting Joint Commissioner, the Appellate Joint Commissioner [2][or the Commissioner (Appeals)] or the Appellate Tribunal, as the case may be, in the course of any proceedings relating to any order referred to in clause (a) or (b).

(3) Where the assessee is the applicant, the Commissioner shall be made a respondent; and where the Commissioner is the applicant the assessee shall be made a respondent :

Provided that where an assessee dies or is succeeded by another person or is a company which is being wound up, the application shall not abate and may, if the assessee was the applicant, be continued by, and if he was the respondent, be continued against, the executor, administrator or successor or other legal representative of the assessee ,or by or against the liquidator or receiver, as the case may be.

(4) On receipt of the notice of the date of hearing of the application, the respondent shall, at least seven days before the date of hearing, submit in writing a reply to the application; and he shall therein specifically admit or deny whether the question of law formulated by the applicant arises out of the order of the Appellate Tribunal.

(5) If the question formulated by the applicant is, in the opinion of the respondent, defective, the reply shall state in what particulars the question is defective and what is the exact question of law, if any, which arises out of the said order; and the reply shall be in triplicate and be accompanied by any documents which are relevant to the question of law formulated in the application and which were produced before the Deputy Commissioner of Taxes, the Inspecting Joint Commissioner, the Appellate Joint Commissioner, [3][the Commissioner (Appeals)] or the Appellate Tribunal, as the case may be, in the course of any proceedings relating to any order referred to in subsection (2) (a) or (b).

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[1] *Ins by F.A. 1990*
[2] *Ins by F.A. 1990*
[3] *Ins by F.A. 1990*

(6) Section 5 of the Limitation Act,1908 (IX of 1908) shall apply to an application under sub-section (1).

161. Decision of the High Court Division.- (1) Where any case has been referred to the High Court Division under section 160 it shall be heard by a bench of not less than two judges and the provisions of section 98 of the Code of Civil Procedure 1908 (V of 1908), shall, so far as may be, apply in respect of such case.

(2) The High Court Division shall, upon hearing any case referred to it under section 160, decide the question of law raised thereby and shall deliver its judgement thereon stating the grounds on which such decision is founded and shall send a copy of such judgement under the seal of the Court and signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with the judgement.

(3) The costs in respect of a reference to the High Court Division under section 160 shall be in the discretion of the Court.

(4) Notwithstanding that a reference has been made under section 160 to the High Court Division, tax shall be payable in accordance with the assessment made in the case unless the recovery thereof has been stayed by the High Court Division.

162. Appeal to the Appellate Division.- (1) An appeal shall lie to the Appellate Division from any judgement of the High Court Division delivered under section 161 in any case which the High Court Division certifies to be a fit one for appeal to the Appellate Division.[:

*(Proviso)***]*

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[1] *Proviso Ins. by F.A 1989 & 1991 and omitted by F.A. 1995*

(2) The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to appeals to the Appellate Division shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of the High Court Division :

Provided that nothing in this sub-section shall be deemed to affect the provision of section 161 (2) or (4):

Provided further that the High Court Division may, on petition made for the execution of the order of the Appellate Division in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court Division.

(3) Where the judgment of the High Court Division is varied or reversed in appeal under this section, effect shall be given to the order of the Appellate Division in the manner provided in section 161 (2) and (4) in respect of a judgment of the High Court Division.

(4) The provisions of sub-section (3) and sub-section (4) of section 161 relating to costs and payment of tax shall apply in the case of an appeal to the Appellate Division as they apply to a reference to the High Court Division under section 160.

CHAPTER XX
PROTECTION OF INFORMATION

163. Statements, returns, etc. to be confidential.- (1) Save as provided in this section, all particulars or information contained in the following shall be confidential and shall not be disclosed, namely:-

(a) any statement made, return furnished or accounts or documents produced under the provisions of this Ordinance;

(b) any evidence given, or affidavit or deposition made, in the course of any proceedings under this Ordinance other than proceedings under Chapter XXI ;

(c) any record of any assessment proceedings or any proceeding relating to the recovery of demand under this Ordinance.

(2) Notwithstanding anything contained in the Evidence Act, 1872 (I of 1872) or any other law for the time being in force, no Court or other authority shall, save as provided in this Ordinance, be competent to require any public servant to produce before it any return, accounts or documents contained in, or forming a part of, the records relating to any proceeding under this Ordinance or to give evidence before it in respect thereof.

(3) The prohibition under sub-section (1) shall not apply to the disclosure of-

(a) any particulars, or in respect of any statement, return, accounts, documents, evidence, affidavit or deposition required for the purposes of prosecution of an offence under this Ordinance, the Penal Code (XLV of 1860), or the Foreign Exchange Regulation Act, 1947 (VII of 1947);

(b) any particulars or information which is necessary for the purposes of this Ordinance to any person acting in the execution of this Ordinance, or of any particulars to any person being an expert whose services have been placed at the disposal of the Government by any international organisation of which Bangladesh is a member;

(c) any particulars or information which is occasioned by the lawful employment under this Ordinance of any process for the service of any notice or the recovery of any demand;

(d) any particulars of the amount due from an assessee under this Ordinance by the Board or any officer authorised by it, or by the Commissioner, to any department of the Government, local authority, bank, corporation or other organization for the purpose of the recovery of any demand;

(e) any particulars to a Civil Court in any suit which relates to any matter arising out of any proceeding under this Ordinance and to which Government is a party;

(f) any particulars to the Comptroller and Auditor-General of Bangladesh for the purpose of enabling him to discharge his functions under the Constitution;

(g) any particulars to any officer appointed by the Comptroller and Auditor- General of Bangladesh or the Board for the purpose of auditing tax receipts or refunds;

(h) any particulars relevant to any inquiry into the conduct of any official of the income tax department to any person appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of any such inquiry;

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a lawyer, a chartered accountant or a cost and management accountant to any authority empowered to take disciplinary action against such lawyer, chartered accountant or cost and management accountant;

(j) any particulars by a public servant where the disclosure is occasioned by the lawful exercise by him of the powers under the Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document;

(k) any facts to an authorised officer of the Government of any country outside Bangladesh with which the Government of the People's Republic of Bangladesh has entered into an agreement for the avoidance of double taxation and the prevention of fiscal evasion where such disclosure is required under the terms of the agreement;

(l) any such facts to any officer to the Government as may be necessary for the purpose of enabling the Government to levy or realise any tax imposed by it;

[1][(m) any such facts to any authority exercising power under the Excise and Salt Act, 1944 (I of 1944), the Gift-tax Act, 1963 (XIV of 1963), দানকর আইন, ১৯৯০ (১৯৯০ সনের ২২ নং আইন), the Wealth-tax Act, 1963 (XV of 1963), the Customs Act, 1969 (IV of 1969), the Sales tax Ordinance, 1982, (XVIII of 1982) or মূল্য সংযোজন কর আইন, ১৯৯১ (১৯৯১ সনের ২২ নং আইন) as may be necessary for the purpose of enabling it duly to exercise such powers;]

(n) so much of any such particulars, to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to income tax in any particular year or years, where, under the provisions of any law for the time being in force, such fact is required to be established;

(o) any such particulars to the Bangladesh Bank as are required by that Bank to enable it to discharge its functions under the foreign exchange control laws or to compile financial statistics of international investments and balance of payments;

(p) any such information as may be required by any officer or department of the Government for the purpose of investigation into the conduct and affairs of a public servant;

(q) any such particulars as may be required by any order made under section 19(2) of the Foreign Exchange Regulation Act, 1947 (VII of 1947) [2][; or

(r) a list of highest tax-payers in accordance with rules made in this behalf][3][;

(s) the particulars of any assessee mentioned in the certificate issued under section 184B to any person or authority mentioned in sub-section (1) of section 184A for the purpose of verifying the authenticity of the twelve-digit Taxpayer's Identification Number (TIN).]

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[1] *Subs. by F.A. 1999*
[2] *Ins. by F.A. 1994*
[3] *Ins. by F.A. 2014*

(4) Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 90 or 111, or to the giving of evidence by a public servant in respect thereof.

(5) Any person to whom any information is communicated under this section, and any person or employee under his control, shall in respect of that information, be subject to the same rights, privileges, obligations and liabilities as if he were a public servant and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(6) This section shall not be construed as prohibiting the voluntary disclosure of any particulars referred to in sub-section (1) by the person by whom the statement was made, return furnished, accounts or documents produced, evidence given or affidavit or deposition made, as the case may be.

CHAPTER XXI
OFFENCES AND PROSECUTION

164. Punishment for non-compliance of certain obligations.- A person is guilty of an offence punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he, without reasonable cause,-

(a) fails to deduct [1][or collect] and pay any tax as required under the provisions of Chapter VII except advance payment of tax or fails to deduct and pay tax as required under section 143(2);

(b) fails to produce, or cause to be produced, on or before the date mentioned in any notice under Chapter VIII, or under section 83, such accounts, documents or statements as are referred to in such notice;

(c) fails to furnish, in due time, the return of income which he is required to furnish under section 75, or by notice given under section 77 or 93;

[2][(cc) refuses to furnish such information as may be necessary under section 113;]

(d) refuses to permit inspection or to allow copies to be taken in accordance with the provisions of section 114;

(e) fails to afford necessary facilities or to furnish the required information to an income tax authority exercising powers under section 115; [3][***]

[4] [(ee) fails to comply with the requirement under sub-section (1) of section 116;

(eee) fails to comply with the order made under sub-section (1) of section 116A; or]

(f) refuses to permit or in any manner obstructs the exercise of powers under section 117 by an income tax authority.

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[1] *Ins. by F.A 1989*

[2] *Ins. by F.A. 2011*

[3] *Omitted "or" by F.A. 2013*

[4] *Ins. new clauses (ee) and (eee) by F.A. 2013*

165. Punishment for false statement in [1][verification, etc.].-
A person is guilty of an offence punishable with imprisonment for a term which may extend to three years, [2][but shall not be less than three months,] or with fine, or with both, if he-

(a) makes a statement in any verification, etc. in any return or any other document furnished under any provisions of this Ordinance which is false [3][***];

(b) knowingly and willfully aids, abets, assists, incites or induces another person to make or deliver a false return, account, statement, certificate or declaration under this Ordinance, or himself knowingly and willfully makes or delivers such false return, account, statement, certificate or declaration on behalf of another person [4][;

(c) signs and issues any certificate mentioned in the first or second proviso to section 82 which he either knows or believes to be false or does not believe to be true] [5][;

(d) refuses to furnish such information as may be necessary for the purpose of survey under section 115.]

[6]**[165A. Punishment for improper use of Tax-payer's Identification Number.-** A person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine up to taka fifty thousand or both, if he deliberately uses or used a fake Tax-payer's Identification Number (TIN) or a Tax-payer's Identification Number (TIN) of another person.]

[7]**[165B. Punishment for obstructing an income tax authority.-** A person who obstructs an income tax authority in discharge of functions under this Ordinance shall commit an offence punishable with imprisonment for a term not exceeding one year, or with a fine, or with both.]

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[1] Subs. for "verification" by F.A. 1993
[2] Ins. by F.A. 1999
[3] Omitted by F.A. 1999
[4] Ins. by F.A 1993
[5] Ins. by F.A. 1999
[6] Ins. new section 165A by F.A. 2010
[7] Ins. new section 165B by F.A. 2011

166. Punishment for concealment of income, etc.- A person is guilty of an offence punishable with imprisonment which may extend to five years [1][but shall not be less than three months], or with fine, or with both, if he conceals the particulars, or deliberately furnishes inaccurate particulars, of his income.

167. Punishment for disposal of property to prevent attachment.- The owner of any property, or a person acting on his behalf or claiming under him, is guilty of an offence punishable with imprisonment for a term which may extend to five years, or with fine, or with both, if he sells, mortgages, charges, leases or otherwise so deals with the property after the receipt of a notice from the Tax Recovery Officer as to prevent its attachment by that Officer.

168. Punishment for disclosure of protected information.- A public servant, or any person assisting, or engaged, by any person acting in the execution of this Ordinance, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine, if he discloses any particulars or information in contravention of the provisions of section 163.

169. Sanction for prosecution.- (1) No prosecution for an offence punishable under any provisions of this Chapter shall be instituted except with the previous sanction of the Board.

[2][(2)***]

170. Power to compound offences.- [3][The Board may], either before or after the institution of any proceedings or prosecution for an offence punishable under this Chapter, compound such offence.

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[1] *Ins. by F.A. 1999*
[2] *Omitted by F.A. 1999*
[3] *Subs. for "the Commissioner may" by F.O. 2008*

171. Trial by Special Judge.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, an offence punishable under this Chapter, other than an offence under section 168, shall be tried by a Special Judge appointed under the Criminal Law Amendment Act, 1958 (XL of 1958), as if such offence were an offence specified in the Schedule to that Act.

(2) A Special Judge shall take cognizance of, and have jurisdiction to try, an offence triable by him under sub-section (1) only upon a complaint in writing made, after obtaining the sanction under 169, by the Deputy Commissioner of Taxes-

(a) who is competent to make assessment under this Ordinance in the case to which the offence alleged to have been committed relates, and

(b) whose office is situated within the territorial limits of the jurisdiction of the Special Judge.

CHAPTER XXII
MISCELLANEOUS

172. Relief when salary, etc. is paid in arrear or advance.- Where the income of an assessee is assessable at a rate higher than that at which it would otherwise have been assessed by reason of-

(a) any portion of his salary being paid in arrears or in advance, or

(b) his having received in any one financial year salary for more than twelve months, or

(c) his having received a payment which is a profit in lieu of salary, or

(d) his having received in arrears in one income year any portion of his income from interest on securities relatable to more income years than one;

the Deputy Commissioner of Taxes may, on an application made to him in this behalf, determine the tax payable as if the salary, payment or interest had been received by the assessee during the income year or years to which it relates and may refund the amount of tax, if any, paid in excess of the tax so determined.

173. Correction of errors.- (1) Any income tax authority or the Appellate Tribunal may, by order in writing, amend any order passed by it so as to correct any error apparent from the record either of its own motion or on the error having been brought to its notice by the assessee or any other income tax authority and all the provisions of this Ordinance as may be applicable shall have effect accordingly.

(2) No amendment under sub-section (1) which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee shall be made unless the parties affected thereby have been given a reasonable opportunity of being heard.

(3) Where any such error as is referred to in sub-section (1) is brought to the notice of the authority concerned by the assessee and no amendment is made by such authority within the financial year next following the date in which the error is brought to its notice, the amendment under that sub-section shall be deemed to have been made so as to correct the error and all the provisions of this Ordinance shall have effect accordingly.

(4) No amendment under sub-section (1) shall be made after the expiration of four years from the date of the order sought to be amended.

(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment of the firm or on any reduction or enhancement made in the income of the firm under sections 120, [1][121A],156, 159, 161 or 162 that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner, or, if included, is not correction, the inclusion of the share in the assessment or the correct thereof, as the case may be, shall be deemed to be correction of an error apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in sub-section (4) being computed from the date of the final order passed in the case of the firm.

(6) Where as a result of proceedings initiated under section 93, a firm or an association of persons is assessed, and the Deputy Commissioner of Taxes concerned is of opinion that it is necessary to compute the total income of a partner in the firm or a member of the association of persons, as the case may be, the Deputy Commissioner of Taxes may proceed to compute the total income and determine the sum payable on the basis of such computation as if the computation is a correction of an error apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified in sub-section (4) being reckoned from the date of the final order passed in the case of the firm or association of persons, as the case may be.

(7) Subject to the provisions of sub-section (3) where an amendment is made under this section, an order shall be passed in writing by the income tax authority concerned or the Appellate Tribunal, as the case may be.

[2]**[173A. Place of assessment.-** (1) Where an assessee carries on a business, profession or vocation at any place, he shall be assessed by the Deputy Commissioner of Taxes of the area in which that place is situate or, where the business, profession or vocation is carried on in more places than one, by the Deputy Commissioner of Taxes of the area in which the principal place of his business, profession or vocation is situate.

(2) In all other cases, an assessee shall be assessed by the Deputy Commissioner of Taxes of the area in which he resides.

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[1]*Subs. by F.A. 2014*
[2] *Ins. by F.A. 1987*

(3) Where any question arises under this section as to place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in areas within the jurisdiction of more Commissioners than one, by the Commissioners concerned, or, if they are not in agreement, by the National Board of Revenue:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(4) No person shall be entitled to call in question the jurisdiction of a Deputy Commissioner of Taxes after he has made the return of total income, or where he has not made such return, after the time allowed by the notice served on him for making such return has expired.]

174. Appearance by authorised representative.- (1) Any assessee, who is entitled or required to appear before any income tax authority or the Appellate Tribunal in connection with any proceedings under this Ordinance, may, except when required under section 122 to attend personally, appear by an authorised representative.

(2) For the purpose of this section, "authorised representative" means a person, authorised in writing by the assessee to appear on his behalf, being-

(a) a relative of the assessee who is his parent, spouse, son, daughter, brother or sister;

(b) a whole time regular employee of the assessee;

[1][(c)***]

(d) a legal practitioner who is entitled to practice in a Civil Court in Bangladesh;

(e) a chartered accountant or a cost and management accountant or a member of an association of accountants recognised in this behalf by the Board; or

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[1] *Omitted by F.A. 1993*

(f) an income tax practitioner registered as such by the Board in accordance with the rules made in this behalf and subject to such conditions as may be laid down in those rules [1][:

Provided that such an income tax practitioner shall be a member of any registered Taxes Bar Association.]

(3) Notwithstanding anything contained in sub-section (1), the following persons shall not be qualified to represent an assessee under that sub-section, namely:-

(a) a person who has been dismissed from Government service;

(b) a legal practitioner, or a chartered accountant, a cost and management accountant, or other accountant mentioned in clause (e) of sub-section (2), or an income tax practitioner, who, having been found guilty of misconduct in his professional capacity-

(i) by any authority empowered to take disciplinary action against him, or

(ii) by the [2][Board], in connection with any income-tax proceeding, and, on account of that finding, he stands disqualified from practising his profession for so long as such disqualification continues [3]*[:*

Provided that no person shall be disqualified under this sub-clause unless he is given a reasonable opportunity of being heard:

[4]*[Provided further that any person disqualified under this sub-clause may, within one month of his disqualification, appeal to the Government to have the disqualification removed :]*

[5]*[Provided further that no disqualification under this sub-clause shall take effect until one month from the date of such disqualification has elapsed or, when an appeal is preferred, until the disposal of the appeal;]]*

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[1] *Subs. "colon" for "full-stop" and ins. proviso by F.A. 2006*
[2] *Subs. for "Commissioner" by F.A. 1992*
[3] *Ins. clauses by F.A. 1988*
[4] *Omitted by F.A. 1992, re-ins by F.A. 1993*
[5] *Ins. by F.A. 1993*

(c) a person who has become insolvent for so long as the insolvency continues;

(d) a person who has been convicted of any offence connected with any income tax proceeding under this Ordinance unless the Commissioner, with the approval of the Board, by order, remove his disqualification under this sub-section; and

(e) any Government servant in the Income-tax Department who has resigned or retired from such service, for a period of three years from the date of acceptance of resignation or a period of one year from the date of retirement, as the case may be.

175. Tax to be calculated to nearest taka.- In the determination of the amount of tax or of a refund payable under this Ordinance, fractions of a taka, less than fifty poisha, shall be disregarded and fractions of a taka equal to or exceeding fifty poisha shall be regarded as one taka.

176. Receipts to be given.- A receipt shall be given for any money paid or recovered under this Ordinance.

177. Computation of the period of limitation.- (1) In computing the period of limitation prescribed for an appeal or application under this Ordinance, the day on which the order complained of was served, or, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining the copy of the order shall be excluded.

(2) Where the period of limitation prescribed for an appeal or application under this Ordinance expires on a day which is a closed holiday, the appeal or application may be made on the day next following such holiday.

178. Service of notice.- [1][(1) A notice, an assessment order, a form of computation of tax or refund, or any other document may be served on the person named therein either by registered post or in the manner provided for service of a summons issued by a Court under the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that where a notice, an assessment order, a form of computation of tax or refund, or any other document is received by an authorized representative as referred to in section on 174, such receipt by the authorized representative, shall be construed as valid service on that person.]

[2][(1A)***]

(2) A notice may be addressed-

(a) in the case of a firm or a Hindu undivided family, to any member of the firm, or the manager or any adult male member of the family;

(b) in the case of a local authority or a company, to the principal officer thereof;

(c) in the case of other body or association of persons, to the principal officer or any member thereof;

(d) in a case where a firm or association of persons is dissolved, to any person who was a member of the firm or association, as the case may be, immediately before such dissolution;

(e) in a case where a business or profession is discontinued to which section 89 applies, if the business or profession discontinued was-

(i) that of an individual, to the person whose income is to be assessed;

(ii) that of a company, to the principal officer thereof; and

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[1] *Subs. by F.A. 2012*
[2] *Ins. by F.A. 1993 & omitted by F.A. 1997*

(iii) that of a firm or association of persons, to any person who was a partner of such firm or a member of such association, as the case may be, at the time of the discontinuance;

(f) in a case where a finding of partition has been recorded under section 90 in respect of a Hindu undivided family, to the person who was the last manager of the family or, if such person is dead, to all adult male persons who were members of the family immediately before the partition; and

(g) in any other case, not being an individual, to the person who manages or controls the affairs of the person or institution concerned.

(3) The validity of any notice or of the service of any notice shall not be called in question after the return in response to the notice has been filed or the notice has been complied with.

[1]***[Explanation***.- In this section, "notice" includes order or requisition made or issued under this Ordinance.]

179. Certain errors not to vitiate assessment, etc.- No assessment, order, notice, warrant or other document made, issued or executed, or purporting to be made, issued or executed, under this Ordinance, shall be void or otherwise inoperative, merely for want of form, or for an error, defect or omission therein, if such want of form, error, defect or omission is not of a substantial nature prejudicially affecting the assessee.

180. Proceeding against companies under liquidation.- Notwithstanding anything contained in section 171 of the Companies Act, 1913 (VII of 1913), leave of the Court shall not be required for continuing any proceeding, or commencing any proceeding, under this Ordinance against a company in respect of which a winding up order has been made or provisional liquidator appointed.

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[1] *Ins. by F.A. 1993*

181. Indemnity.- Every person deducting, retaining or paying any tax in pursuance of this Ordinance in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

182. Bar of suits and prosecution, etc.- (1) No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Ordinance.

(2) No suit, prosecution or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Ordinance.

183. Ordinance to have effect pending legislative provision for charge of tax.- If, on the first day of July in any year provision has not been made by Act of Parliament for the charging of income tax for that year, this Ordinance shall nevertheless have effect until such provision is made, as if the provision in force in the preceding year, or the provision proposed in the bill which may then be before the Parliament, whichever is more favourable to the assessee, were actually in force.

[1][(184.)*]**

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[1]*Omitted by F.A. 1992*

[1][**184A. Requirement of certificate or acknowledgment receipt containing twelve-digit Taxpayer's Identification Number of return of income in certain cases.- (1)** Notwithstanding anything contained in this Ordinance, a person shall be required to submit an acknowledgement receipt containing twelve-digit Taxpayer's Identification Number of the return of income filed for the immediate preceding assessment year or a certificate from the concerned Deputy Commissioner of Taxes or a computer generated certificate communicated by a computer system as may be authorised by the Board in this behalf or, in case of an old assessee, a certificate by the Deputy Commissioner of Taxes containing twelve-digit Taxpayer's Identification Number and assessment completion information to the concerned authority, by any person at the time of-

(a) opening a letter of credit for the purpose of import;

(aa) submitting an application for the purpose of obtaining an import registration certificate;

(b) renewal of trade license in the area of a city corporation or of a Paurashava ;

(c) submitting tender documents for the purpose of supply of goods, execution of a contract or for rendering services;

(d) submitting an application for membership of a club registered under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);

(e) issuance or renewal of license or enlistment of a surveyor of general insurance;

(f) registration for purchase of land, building or an apartment situated within any city corporation or any paurashava of a district headquarter, deed value of which exceeds one lakh taka;

(ff) provisions of clause (f) shall not apply in case of registration for purchase of land, building or an apartment situated within any city corporation, by a non resident Bangladeshi;

(g) registration, change of ownership or renewal of fitness of a car, jeep or a microbus;

[1] *Subs. by F.A. 2014*

(h) sanction of loan exceeding five lakh taka to a person by a commercial bank or a leasing company;

(i) issue of credit card;

(j) issue of practicing license to a doctor, a chartered accountant, a cost and management accountant, a lawyer or an income tax practitioner;

(k) giving ISD connection to any kind of telephone;

(l) being director of a company or sponsor shareholder of a company;

(m) submission of application for a license as a Nikah Registrar under the Muslim Marriages and Divorces (Registration) Act. 1974 (LII of 1974):

Provided that a person who has already obtained the license of a Nikah Registrar shall be required to obtain such certificate within three months from the date of commencement of this provision;

(n) applying for or renewal of membership of any trade body;

(o) submitting a plan for construction of building for the purpose of obtaining approval from Rajdhani Unnayan Kartripakkha (Rajuk), Chittagong Development Authority (CDA), Khulna Development Authority (KDA) and Rajshahi Development Authority (RDA);

(p) issuance of drug license ;

(q) applying for connection of gas for commercial purpose in a city corporation, paurashava or cantonment board;

(r) applying for connection of electricity for commercial purpose in a city corporation, paurashava or cantonment board;

(s) registration, change of ownership or renewal of fitness of a bus, truck, prime mover, lorry etc., plying for hire ;

(t) issuance or renewal of survey certificate of a water vessel including launch, steamer, fishing trawler, cargo, coaster and dump-burge etc., plying for hire;

(u) registration or renewal of certificate as agent of an insurance company;

(v) permission or renewal of permission for the manufacture of bricks by Deputy Commissioner's office in a district or Directorate of Environment, as the case may be;

(w) submitting nomination form for any election in upazilla, paurashava, city corporation or Jatiya Sangsad.

(2) Having received the certificate or acknowledgement receipt of return of income as mentioned in sub-section (1), the concerned authority shall verify the authenticity of the twelve-digit Taxpayer's Identification Number (TIN) as may be prescribed by the Board.]

[1]**[184AA. [2][Twelve-digit] Tax-payer's identification number (TIN) in certain documents, etc.-** The Board may, with the prior approval of the Government and by notification in the official Gazette, specify any class of documents where a [3][twelve-digit Tax-payer's Identification Number] (TIN) is to be mentioned.]

[184B. Tax-payer's identification number.- [4][(1) Every assessee or any person who applies manually or electronically for a Taxpayer's Identification Number will be issued a certificate containing twelve-digit Taxpayer's Identification Number and such other particulars in such manner as may be prescribed:

Provided that twelve-digit Tax-payer's Identification Number may be issued without any application where any income tax authority has found a person having taxable income during the year and possesses such necessary information of that person for issuance of twelve-digit Tax-payer's Identification Number.]

(2) Board may, by general or special order in writing, direct any person or classes of persons who already hold a Tax-payer's Identification Number to furnish such information or documents for the purpose of re-registration and thereafter issue a new [5][twelve-digit] Tax-payer's Identification Number.]

[5][(3) Every existing assessee having ten-digit Tax-payer's Identification Number or a Temporary Registration Number (TRN) shall have to obtain twelve-digit Tax-payer's Identification Number (TIN) before the last date of submission of return of income as required under section 75.]

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[1] *Ins. by F.A. 2000*
[2] *Ins. by F.A. 2014*
[3] *Subs. by F.A. 2014*
[4] *Subs. by F.A. 2014*
[5] *Ins. by F.A. 2014*

[1]**[184BB. Tax collection account number.-** Every person required to deduct or collect tax under Chapter VII of this Ordinance shall be given a tax collection account number in such manner as may be prescribed.]

[2]**[184BBB. Unified Taxpayer's Identification Number (UTIN).-** An assessee having taxpayer's identification number (TIN) when registered with VAT authority and obtained a business identification number (BIN) shall be given a Unified Taxpayer's Identification Number (UTIN) in such manner as may be prescribed by the Board.]

[3]**[184BBBB. Issuance of Temporary Registration Number (TRN).-** Temporary Registration Number (TRN) may be given to a person who has been found having taxable income in any year and has failed to apply for Tax-payer's Identification Number (TIN) under section 184B.]

[4]**[184C. Displaying of** [5][twelve-digit] **tax payer's identification number certificate.-** An assessee having income from business or profession shall obtain [5][twelve-digit] tax payer's identification number (TIN) certificate from the Deputy Commissioner of Taxes under whose jurisdiction he is being [6][assessed] and display such certificate at a conspicuous place of such assessee's business premises.]

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[1] *Ins. by F.A. 2001*
[2] *Ins. by F.A. 2007*
[3] *Ins. new section 184BBBB by F.A. 2012*
[4] *Ins. by F.A. 1999*
[5] *Ins. by F.A. 2014*
[6] *Subs. for "assessed, by the thirty first day of December, every year" by F.A. 2000*

[1]**[184D. Reward to officers and employees of the Board and its subordinate income tax offices [2][***].-** (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Board may, in such manner and in such circumstances and to such extent as may be prescribed, grant reward to the following persons :-

(a) an officer or employee of the Board and its subordinate tax offices for outstanding performance [3][, collection] of taxes and detection of tax evasion;

(b)any other person for furnishing information leading to detection of tax evasion.

(2) The Board may, in addition to the reward mentioned in sub-section (1), grant reward to officers and employees of the Board and its subordinate tax offices for a financial year for collection of revenue in excess of the revenue target as may be prescribed.]

[4]**[184E. Assistance to income tax authorities.-** All officers and staff of government and semi-government organizations, law enforcement agencies, autonomous bodies, statutory bodies, financial institutions, educational institutions, private organizations, local government and non-government organizations shall assist the income tax authorities in the discharge of their functions under this Ordinance.]

[5]**[184F. Ordinance to override other laws.-** Notwithstanding anything contained in any other law for the time being in force, the provisions of this Ordinance or any proceedings thereunder shall prevail over any other law in respect of tax on income and exemptions of tax thereof.]

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[1]*Ins. by F.A. 2000 and subs. by F.A. 2010*

[2]*Omitted by F.A. 2014*

[3]*Subs by F.A. 2014*

[4] *Ins. new section 184E by F.A. 2010*

[5] *Ins. new section 184F by F.A. 2011*

CHAPTER XXIII
RULES AND REPEAL

185. Power to make rules.- (1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance ; and any such rules may, in so far as they do not impose, or have the effect of imposing, any criminal liability, by given retrospective effect.

(2) In particular, and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the ascertainment and determination of the classification of any income in respect of which the provisions of this Ordinance are not clear;

(b) the manner in which, and the procedure by which, the income and the tax payable thereon shall be determined in the case of-

(i) non-residents, and

(ii) income derived in part from agriculture and in part from business;

(c) the ascertainment and determination of any income or class of income to be included in the total income of an assessee ;

(d) the determination of the value of any perquisites and benefits and of the allowances permissible under this Ordinance in respect of any head of income or total income;

(e) the procedure for the grant of exemption of income of industrial undertakings or tourist industries and any other matter connected with or incidental thereto;

(f) the manner in which, and the procedure by which, self-assessment may be made;

(g) the procedure for, and any other matter connected with or incidental to, the issue of exemption certificate or tax clearance certificate under section 107;

(h) the procedure to be followed on application for refund;

(i) registration of income tax practitioners, qualifications for registration, conditions and limitations subject to which income-tax practitioners may act as authorised representative under this Ordinance, cancellation of registration or other disciplinary measures in respect of income tax practitioners ;

(j) fees and other charges to be paid in respect of any services rendered or in respect of any matter for which fees and charges are payable under this Ordinance; and

(k) any other matter which is to be provided for by rules, or which is to be or may be prescribed under this Ordinance.

(3) In cases coming under sub-section (2)(b), the rules may prescribe methods by which an estimate of such income may be made, and prescribe the proportion which shall be deemed to be income classifiable under the head "Agricultural income" or "Income from business or profession", and an assessment based on such estimate or proportion, as the case may be, shall be deemed to be duly made in accordance with the provisions of this Ordinance.

(4) The power to make rules under this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication [1] [:

Provided that where previous publication of the draft of any proposed rules or of any amendment to any existing rules is made pursuant to the provisions of this subsection, giving therewith a notice soliciting objections and suggestions to such draft within the period specified in the notice and if no objection or suggestion is received within the period specified, the previous publication of such draft shall be deemed to be the final publication of the proposed rules or amendment, as the case may be.]

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[1] *Ins. by F.A. 1998*

186. Repeal and savings.- (1) The Income-tax Act,1922 (XI of 1922) is hereby repealed.

(2) Notwithstanding the repeal, the Income tax Act,1922 (XI of 1922), and the rules made thereunder, shall continue to apply, as if that Act had not been repealed,-

(a) to any income of, or relatable to, any period prior to the commencement of this Ordinance; and

(b) to any notice issued, or any assessment, order, application or appeal made, any proceedings commenced or any prosecution instituted, under that Act.

(3) Save as provided in sub-section (2), the repeal under sub-section (1) and enactment of this Ordinance shall, for the purposes of the General Clauses Act,1897 (X of 1897), be deemed to be repeal and re-enactment of the Income-tax Act,1922 (XI of 1922).

187. Removal of difficulties.- (1) If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Government may, by notification in the official Gazette, make such provisions as it thinks fit for removing that difficulty.

(2) No notification under this section shall be issued after the thirtieth day of June,1988.

THE FIRST SCHEDULE
PART A
APPROVED SUPERANNUATION FUND OR PENSION FUND
[See section 2(6)]

1. Definitions.- For the purposes of this Part,-

(a) "employer", "employee", "contribution" and "salary" have, in relation to [1][Superannuation fund or Pension Fund], the same meanings assigned to those expressions in paragraph 1 of Part B in relation to provident fund; and

(b) "ordinary annual contribution" means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund.

2. Approval and withdrawal of approval.- [2][(1) The Board shall within six months from the date of receipt of the application by it for according approval to any Superannuation fund or Pension Fund, accord such approval, failing which the Superannuation fund or Pension Fund shall be deemed to have been accorded approval and the Board may, if, in its opinion, the Superannuation fund or Pension Fund contravanes any of the conditions specified in paragraph 3, withdraw such approval at any time.]

(2) The Board shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and where the approval is granted subject to conditions, those conditions.

(3) The Board shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

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[1] *Subs. the words for "Superannuation Funds" and " Superannuation Fund" in Part-A by F.A. 2000*

[2] *Subs. by F.A. 1999*

(4) The Board shall neither refuse nor withdraw approval to any Superannuation fund or Pension Fund or any part of a Superannuation fund or Pension Fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.

3. Conditions for approval.- In order that a Superannuation fund or Pension Fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may prescribe-

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in Bangladesh;

(b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependents of persons who are, or have been, such employees on the death of those persons;

(c) the employer in the trade or undertaking shall be a contributor to the fund; and

(d) all annuities, pensions and other benefits granted from the fund shall be payable only in Bangladesh :

Provided that the Board may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund-

(i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or

(ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or

(iii) notwithstanding the trade or undertaking, in connection with which the fund is established, is carried on only partly in Bangladesh.

4. Application for approval.- (1) An application for approval of a Superannuation fund or Pension Fund or part of a Superannuation fund or Pension Fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the [1][Board] and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Board may require such further information to be supplied as it thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Deputy Commissioner of Taxes, and in default of such communication, any approval given shall, unless the Board otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

5. Exemption of income of and contribution to Superannuation fund or Pension Fund from tax.- (1) Income derived from investments or deposits of an approved Superannuation fund or Pension Fund and any capital gains arising from the transfer of capital assets of such fund shall be exempt from payment of tax.

(2) Any sum paid by an employer as contribution towards an approved Superannuation fund or Pension Fund shall be deducted in computing his income, profits and gains for the purpose of assessment :

Provided that where a contribution by an employer is not an ordinary annual contribution it shall, for the purpose of this paragraph, be treated either as an expense in the income year in which the sum is paid or as an expense to be spread over such period of years as the Board thinks proper.

(3) Tax shall not be payable in respect of any sum paid by an employee by way of contribution towards an approved Superannuation fund or Pension Fund to which the provisions relating to paragraph 6 of part B of the Sixth Schedule shall apply:

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[1] *Subs. for "Deputy Commissioner of Taxes by whom the employer is assessable" by F.A. 2000*

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution.

6. Treatment of repaid contributions.- (1) Where any contributions (including interest on contributions, if any) are repaid to an employee in any income year, the amount so repaid shall be deemed for the purposes of tax to be income of the employee for that year.

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his life time but not at or in connection with the termination of his employment, tax on the amount so repaid or paid shall, except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to tax during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Government within the prescribed time and in such manner as the Board may direct.

7. Deduction from pay of and contributions on behalf of employee to be included in the statement under section 108.- Where an employer deducts from the salary paid to an employee or pays on his behalf any contribution to an approved Superannuation fund or Pension Fund, he shall include all such deductions or payments in the statement which he is required to furnish under section 108.

8. Liabilities of trustees on cessation of approval of fund.- If a fund or a part of a fund, for any reason, ceases to be an approved Superannuation fund or Pension Fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid-

(a) on account of returned contributions (including interest on contributions, if any); and

(b) in commutation or in lieu of annuities;

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Part.

9. Particulars to be furnished in respect of Superannuation fund or Pension Fund.- The trustees of an approved Superannuation fund or Pension Fund and any employer who contributes to an approved Superannuation fund or Pension Fund shall, when required by notice from the Deputy Commissioner of Taxes, within twenty-one days of the date of such notice,-

(a) furnish to the Deputy Commissioner of Taxes a return containing such particulars of contributions made to the fund as the notice may require;

(b) prepare and deliver to the Deputy Commissioner of Taxes a return containing-

(i) the name and place of residence of every person in receipt of an annuity from the fund;

(ii) the amount of the annuity payable to each annuitant;

(iii) particulars of every contribution (including interest on contribution, if any) returned to the employer or to employees; and

(iv) particulars of sums paid in commutation or in lieu of annuities; and

(c) furnish to the Deputy Commissioner of Taxes a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Board may require.

THE FIRST SCHEDULE
PART B
RECOGNISED PROVIDENT FUNDS
[See section 2(52)]

1. Definition.- For the purposes of this Part,-

(a) "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

(b) "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest;

(c) "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time;

(d) "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own money to the individual account of an employee, but does not include any sum credited as interest;

(e) "employee" means an employee participating in a provident fund but does not include a personal or domestic servant;

(f) "employer" means-

[1][(i) a company, firm, other association of persons, a Hindu undivided family or an individual engaged in a business or profession the profits and gains whereof is assessable to tax under the head "Income from business or profession", maintaining a provident fund for the benefit of his or its employees]; or

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[1]*Subs. by F.A. 1997*

[1][(ii) any diplomatic, consular or trade mission or office of any intergovernmental organization located in Bangladesh, maintaining a provident fund for the benefit of Bangladeshi employees of such mission or office;]

(g) "recognized provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this part;

(h) "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund; and

(i) "salary" includes dearness allowance if the terms of employment so provides, but excludes all other allowance and perquisites.

2. According and withdrawal of recognition of provident funds.- [2][(1) The Commissioner shall, within [3][forty five days] from the date of receipt of the application by him for according recognition to any provident fund, accord such recognition, failing which the provident fund shall be deemed to have been accorded recognition, and the Commissioner may, if, in his opinion, the provident fund contravenes any of the conditions specified in paragraph 3 and the rules made by the Board in that behalf, withdraw such recognition at any time.]

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Board may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(3) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertaking in connections with which the two funds are maintained or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first mentioned fund.

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[1] *Ins. by F.A. 1987, re-numbered as sub-clause (ii) by F.A. 1996*
[2] *Subs. by F.A. 1995*
[3] *Subs. for "six moths" by F.A. 2002 again subs. for "thirty days" by F.O. 2008*

(4) An order withdrawing recognition shall take effect from the day on which it is made.

(5) The Commissioner shall neither refuse nor withdraw recognition of any provident fund, unless the applicant is given a reasonable opportunity of being heard.

3. Conditions to be satisfied by a recognised provident fund.- In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the Board may prescribe-

(a) all employees shall be employed in Bangladesh or shall be employed by an employer whose principal place of business is in Bangladesh:

Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in Bangladesh notwithstanding that a proportion not exceeding ten per cent of the employees is employed outside Bangladesh;

(b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion at each periodical payments of such salary in that year and credited to the employee's individual account in the fund;

(c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year:

Provided that, subject to any rules which the Board may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of this clause-

(i) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not, in each case, exceed five hundred taka per mensem; and

(ii) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund;

(d) the fund shall consist of contributions as above specified and of donations, if any, received by the trustees, of accumulations thereof, and of interest, credited in respect of such contributions, donations and accumulations, and of securities purchased therewith and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund, and of no other sums;

(e) the fund shall be vested in two or more trustees or in the official trustee under a trust which shall not be revocable save with the consent of all the beneficiaries;

(f) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund;

(g) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund;

(h) save as provided in clause (g), or in accordance with such conditions and restrictions as the Board may prescribe, no portion of the balance to the credit of an employee shall be payable to him.

4. **Annual accretion deemed to be income received by the employee.-** The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in paragraph 5 shall be liable to tax:

Provided that, for the purposes of section 44(3), out of such annual accretion only the employee's own contributions shall be included in his total income.

5. **Exemption of annual accretion from tax.-** (1) An employee shall not be liable to pay tax on contribution to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-third of his salary for that year.

(2) Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and in so far as it allowed at a rate not exceeding such rate as the Board may, by notification in the official Gazette, fix in this behalf.

6. **Exemption of accumulated balance from tax.-** Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of tax and shall be excluded from the computation of his total income:

Provided that the Commissioner may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if in his opinion, the service has been terminated by reason of the employee's ill health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

7. **Tax on accumulated balance.-** Where exemption from payment of tax is not allowed under paragraph 6, the Deputy Commissioner of Taxes shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any tax for which he may be liable for the income year in which the accumulated balance due to him becomes payable.

8. **Deduction at source of tax on accumulated balance due.-** The trustees of a recognised provident fund, or any other person authorised by the regulations of the fund to make payment of accumulated balance due to employees shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any tax payable under paragraph 7 and any tax payable under paragraph 10(4), and the provisions of Chapter VII shall, so far as may be, apply as if accumulated balance was income chargeable under the head "Salaries".

9. **Accounts of recognised provident funds.-** (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods and shall contain such particulars as the Board may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by the income tax authorities, and the trustees shall furnish to the Deputy Commissioner of Taxes such abstracts thereof as the Board may prescribe.

10. **Treatment of balance in newly recognised provident funds.-** (1) Where recognition is accorded to a provident fund with existing balance, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Board may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-paragraph (4) and (5) shall apply thereto.

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to tax in accordance with the provisions of this Ordinance other than this Part.

(4) Subject to such rules as the Board may make in this behalf, the Deputy Commissioner of Taxes shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to tax if this part had been in force, from the date of institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate, if any, shall be deemed to be income received by the employee in the income year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that income year, and for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance :

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate.

(5) Notwithstanding anything contained in paragraph 3(h), an employee in order to enable him to pay the amount of tax assessed on his total income as determined under sub-paragraph (4), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(6) Nothing in this paragraph shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

11. Treatment of fund transferred by employer to trustee.- (1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangement to secure

that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer within the meaning of section 29(1) (xxvii), incurred in the income year in which the accumulated balance due to the employee is paid.

12. Provisions of this Part to prevail against regulations of the fund.-Where there is a repugnance between any regulation of a recognised provident fund and any provisions of this Part or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect; and the Commissioner may at any time, require that such repugnance shall be removed from the regulations of the fund.

13. Appeals.- (1) An employer objecting to an order of the Commissioner refusing to recognise or an order withdrawing recognition from a provident fund may prefer an appeal, within sixty days of the date of such order, to the Board.

(2) The appeal shall be in such from and shall be verified in such manner as may be prescribed.

14. Provisions relating to rules.- In addition to any power conferred by this Part, the Board may make rules-

(a) prescribing the statements and other information to be submitted with an application for recognition;

(b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of or creation of a charge upon his beneficial interest in a recognised provident fund;

(d) determining the extent to and the manner in which exemption from payment of tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn;

(e) regulating the investment or deposit of the moneys of a recognised provident fund ; and

(f) generally, to carry out the purposes of this Part, and to secure such further control over the recognition of provident funds, and the administration of recognised provident fund, as it may deem requisite.

15. Application of this Part.- This Part shall not apply to any provident fund to which the Provident Fund Act, 1925 (XIX of 1925), applies.

THE FIRST SCHEDULE

[1][**PART C**

APPROVED GRATUITY FUND

[See section 2(5A)]

1. Definitions.- In this Part, unless the context otherwise requires, the expression "contribution", "employee", "employer", "regulations of a fund" and "salary" have, in relation to gratuity funds, the meaning assigned to those expressions in paragraph 1 of Part B in relation to provident funds.

2. Approval of gratuity funds.- [2][(1) The Board shall, within [3][four months] from the date of receipt of the application by it for according approval to any gratuity fund, accord such approval, failing which the gratuity fund shall be deemed to have been accorded approval, and the Board may, if, in its opinion, the gratuity fund contravenes any of the conditions specified in paragraph 3 and the rules made by the Board in that behalf, withdraw such recognition at any time.]

(2) An order according or withdrawing approval shall take effect from such date as the Board may communicate in writing to trustees of the fund.

(3) The Board shall neither refuse nor withdraw approval to any gratuity fund unless it has given the trustees of that fund a reasonable opportunity of being heard.

3. Conditions for approval.- In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Board may prescribe-

(a) the fund shall be a fund established under an irrevocable trust in connection with trade or undertaking carried on in Bangladesh and not less than ninety per cent. of the employees of such trade or undertaking shall be employed in Bangladesh;

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[1] *PART C ins by F.A. 1993*

[2] *Subs. by F.A 1999*

[3] *Subs. for " six months " by F.A. 2006 again subs. for, " three months" by F.A. 2009*

(b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement or after a specified age or on their becoming incapacitated prior to such retirement, or on termination of their employment after a minimum period of service specified in the regulations of the fund or to the widows, children or dependents of such employees on their death;

(c) the employer in the trade or undertaking shall be a contributor to the fund; and

(d) all benefits granted by the fund shall be payable only in Bangladesh.

4. Application for approval.- (1) An application for approval of gratuity fund shall be made in writing by the trustees of the fund to the [1][Board] and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up. The Board may require such further information to be supplied as it thinks proper.

(2) If any alteration in the regulations, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Deputy Commissioner of Taxes mentioned in sub-paragraph (1), and in default of such communication, any approval given shall, unless the Board otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

5. Exemption of income of gratuity fund from tax.- Income derived from investments or deposits of an approved gratuity fund and any capital gains arising from the transfer of capital assets of such fund shall be exempt from payment of tax.

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[1] *Subs. for " Deputy Commissioner of Taxes by whom the employer is assessable" by F.A. 2000*

6. **Treatment of contribution by employer.-** Any sum paid by an employer as contribution towards an approved gratuity fund shall be deducted in computing his income, profits and gains for the purposes of assessment.

7. **Contributions by employer, when deemed to be his income.-** Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of tax to be the income of the employer for the income year in which they are so repaid.

8. **Particulars to be furnished in respect of gratuity funds.-** The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Deputy Commissioner of taxes, furnish, within such period as may be specified in the notice, such return, statement, particulars or information as the Deputy Commissioner of Taxes may require.

9. **Provisions of this Part to prevail against regulations of the fund.-** Where there is a repugnance between any regulation of an approved gratuity fund and any provision of this Part or of the rules made there under , the said regulation shall, to the extent of repugnance, be of no effect, and the Board may, at any time, require that such repugnance shall be removed from the regulations of the fund.

10. **Provisions relating to rules.-** In addition to any power conferred in this Part, the Board may make rules-

(a) prescribing the statements and other information to be submitted along with an application for approval;

(b) limiting the ordinary, annual, and other contributions of an employer to the fund;

(c) regulating the investment or deposit of the money of an approved gratuity fund;

(d) providing for withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part, or the rules made thereunder; and

(e) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds, as it may deem requisite.]

THE SECOND SCHEDULE
RATES OF INCOME TAX IN CERTAIN SPECIAL CASES
[See section 16(3)]

1. Where a person, not being a company, is a non-resident in Bangladesh, [1][except a Bangladeshi non-resident] tax shall be payable by him or on his behalf, on his total income, at the maximum rate.

[2][**2.** Where the total income of an assessee includes any income chargeable under the head "Capital gains" (hereinafter referred to as the "said income"), the tax payable by him on his total income shall be-

(a) in the case of a company-

(i) tax payable on the total income as reduced by the said income had such reduced income been the total income**;** plus

(ii) tax at the rate of fifteen per cent on the whole amount of the said income;

(b) in the case of a person other than a company-

(i) where the said income arises as a result of disposal by the assessee of his capital assets after not more than five years from the date of their acquisition by him, tax payable on the total income including the said income; and

(ii) where the said income arises as a result of disposal by the assessee of his capital assets after five years from the date of their acquisition by him, tax payable on the capital gains at the rate applicable to his total income including the said capital gains, or tax at the rate of fifteen per cent on the amount of the capital gains whichever is the lower.]

[3][**3.** Where the total income of an assessee includes any income from "winnings" referred to in section 19(13) chargeable under the head "Income from other sources" (hereinafter referred to as the "said income"), the tax payable by him on the said income shall be at the rate applicable to his total income including the said income or at the rate of twenty per cent., whichever is the lower.]

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[1] *Ins. by F.A. 1997*
[2] *Subs. by F.A. 2002*
[3] *Subs. by F.A. 1994*

THE THIRD SCHEDULE
COMPUTATION OF DEPRECIATION ALLOWANCE [1][AND AMORTIZATION]
[See section 27 and 29]

1. **Depreciation allowance on assets used for agricultural purposes.-** For the purpose of section 27(1)(f), depreciation allowance at the rates specified in the Table below shall be made in respect of depreciation of any irrigation or protective work or other capital assets:

[2] [TABLE

Serial No.	Classification of irrigation or protective work or other capital assets.	Rate/percentage of the written down value, except as otherwise indicated.	Remarks.
1	2	3	4
1	Pacca buildings	10	
2	Kutcha and pucca buildings	15	
3	Kutcha buildings	20	
4	Temporary structure	----	No rate is specifies; renewal will be allowed as revenue expenditure.
5	Pucca walls	5	
6	Fencing of substantial material	10	
7	Tube-well	15	
8	Tanks	10	
9	Pucca irrigation channel	15	
10	Kutcha irrigation channel	20	
11	Kutcha irrigation wells	$33\ ^{1}/_{3}$	
12	Pucca irrigation wells	5	
13	Bullock drawn iron implements	15	
14	Bullock drawn wooden or leather implements and other small hand/implements.	25	

[1] *Ins. by F.A. 2013*
[2] *TABLE Subs. by F.A. 1987*

Serial No.	Classification of irrigation or protective work or other capital assets.	Rate/percentage of the written down value, except as otherwise indicated.	Remarks.
1	2	3	4
15	Weighing machine	10	
16	Tractors and oil engines and thin implements.	15	
17	Power pumping machinery	20	
18	Factory made cart of iron material with rubber tyre	15	
19	Country Cart	20	
20	Steam engine	10	
21	Workshop tools	15	
22	General (machinery, implements, plants and other assets) not provided for above specially.	10	

2. Allowance for depreciation.- (1) In computing profits and gains from business or profession, an allowance for depreciation shall be made in the manner hereinafter provided in respect of any building, machinery, plant or furniture owned by an assessee [1][or bridge or road or fly over of a physical infrastructure undertaking] and used for the purposes of business or profession carried on by him.

(2) Where any such building, machinery, plant or furniture [2][or bridge or road or fly over of a physical infrastructure undertaking] is not wholly used for the purposes of the business or profession, the allowance under sub-paragraph (1) shall be restricted to the fair proportional part of the amount which would be admissible if such building, machinery, plant or furniture were wholly so used.

[1] *Ins. by F. A. 2010*
[2] *Ins. by F. A. 2010*

(3) No allowance under this paragraph shall be made unless-

(a) at the time of filing a return of total income such particulars as may be prescribed and such further information or documents as the Deputy Commissioner of Taxes may require, are furnished ; and

(b) such building, machinery, plant or furniture [1][or bridge or road or fly over of a physical infrastructure undertaking] has been so used during income year.

3. Normal depreciation allowance.- (1) The allowance for normal depreciation under paragraph 2 shall be computed at the rates specified in the table below :

[2][**TABLE**

Serial No	Class of Assets	Rate/percentage of the written down value, except as otherwise indicated.	Remarks.
1	2	3	4
1	[3][(1) Buildings (general) ---------	10	
	(2) Factory buildings --------------	20	
2	Furniture and fittings -------------	10	
[4][2A	Office equipment	10]	
3	Machinery and plant : (1) General rate ------------------	20]	
	(2) Special rates--		
	(a) Ships :		
	(i) Ocean-going ships (new) ---	12	
	(ii) Ocean-going ships (second hand), age at the time of purchase--		The allowance is to be calculated on the original cost.

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[1] *Ins. by F.A. 2010*

[2] *Subs. by এস.আর.ও নং ১৮০-আইন/৯৮ তারিখঃ ৪/৫/১৪০৫ বাং/১৯/৮/৯৮ ইং*

[3] *Subs. by এস. আর. ও নং ১৮০-আয়কর/২০০২, তারিখঃ ০৩/৭/২০০২*

[4] *Ins. by F.A. 2014*

Sl. No	Class of Assets	Rate/percentage of the written down value, except as otherwise indicated.	Remarks.
1	2	3	4
	(a) less than 10 years --	12	
	(b) 10 years or more ---	24	
	(iii) Inland ships including steamers, motor vessels, sails, tug-boats iron or steel flats for cargo, wooden cargo-boats, motor launches and speed boats --------	24	
	(b) (i) Batteries, X-Ray and electrotherapeutic apparatus and accessories thereto -----	20	
	(ii) Machinery used in the production and exhibition of cinema-tographic films.	20	
	(iii) motor vehicles all sorts not plying for hire.	20	
	(iv) motor vehicles all sorts plying for hire.	24	
	[1][(v) computer and computer equipments.	30]	
	[2] [(vi) Bangladeshi made computer software	50]	
	(c)(i) professional and reference books.	30	
	(ii) Aircraft, aeroengines and aerial photographic apparatus.	30	
	(iii) Moulds used in the manufacture of glass or plastic goods or concrete pipe.	30	
	(d) Mineral oil concerns-		
	(i) Below ground installations.	100	
	(ii) Above ground installations, that is to say, portable boilers, drilling tools, well-head tanks and rigs.	30	

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[1] *Ins. by F.O. 2008*
[2] *Ins. by F.A. 2009*

[1][(e) physical infrastructure-

(i)	Bridge	2
(ii)	Road	2
(iii)	Fly over	2
(iv)	Pavement runway, taxiway	2.5
(v)	Apron, termac	2.5
(vi)	Boarding bridge	10
(vii)	Communication, Navigation aid and other equipments	5.]

(2) The Board may, from time to time, by notification in the official Gazette, make any amendment in the Table referred to in sub-paragraph (1)

(3) Notwithstanding anything contained in sub-paragraph (1), [2][***] in the case of any assessee or any class of assessees, or any asset or class of assets, the Board may, by notification in the official Gazette, direct that depreciation allowance shall be a allowance at such rate or rates and in such manner as may be specified.

[3][(4) No allowance under this paragraph shall be made for a leasing company on such machinery, plant, vehicle or furniture given to any leasee on financial lease.]

[4][(4.)*]**

5. Depreciation not to be allowed in cases where the cost of renewal or replacement is allowed.- Notwithstanding anything contained in this Ordinance, no allowance under paragraph 2 [5][***]shall be made in the case of any asset falling under the description "Machinery and Plant" the normal useful life of which does not exceed one year, but the cost of renewal or replacement thereof shall be allowed as a revenue expenditure.

[1] *Subs. by F.A. 2014*
[2] *Omitted by F.A. 1998*
[3] *Ins. by F.O. 2007*
[4] *Omitted by F.A. 1998*
[5] *Omitted by F.A. 1998*

[1][**5A. Initial depreciation allowance.-** (1) Where any building has been newly constructed or any machinery or plant has been installed in Bangladesh after the thirtieth day of June, 2002, an amount by way of initial depreciation allowance in respect of the year of construction or installation or the year in which such building, machinery or plant is used by the assessee for the first time for the purpose of his business or profession or the year in which commercial production is commenced, whichever is the later, shall be allowed at the following rates, namely:-

(a)	in the case of building	-	ten per cent of the cost thereof to the assessee;
(b)	in the case of machinery or plant other than ships or motor vehicles not plying for hire	-	twenty-five per cent of the cost thereof to the assessee;

(2) Nothing contained in sub-paragraph (1) shall apply in the case of-

(a) any motor vehicle not plying for hire, and

(b) any machinery or plant which has previously been used in Bangladesh.

(3) The provisions of paragraph 2 and 3 shall, so far as may be, apply to this paragraph as they apply to the said paragraph.]

[2]**[(6.)***]**

7. Accelerated depreciation allowance on machinery and plant.- [3][(1) In the case of any machinery or plant (other than office appliances and road transport vehicles) which, not having been previously used in Bangladesh, has been or is used in an industrial undertaking set up in Bangladesh between the first day of July, 1977 and the thirtieth day of June, [4][2012] (both days inclusive), an amount by way of accelerated depreciation allowance shall, subject to the conditions set out in sub-paragraph (2), be allowed and computed as follows, namely :-

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[1] *Ins by F.A. 2002*
[2] *Omitted by F.A. 1998*
[3] *Subs. by F.A. 2002 again re-subs. by F.A. 2006*
[4] *Subs. for "2010.*

(a) for the first year in which the undertaking starts commercial production	fifty per cent of the actual cost of plant and machinery to the assessee
(b) for the next following second year --	thirty per cent of the actual cost of plant and machinery to the assessee
(c) for the next following third year --	twenty per cent of the actual cost of plant and machinery to the assessee.

(2) The industrial undertaking referred to in sub-paragraph (1) shall fulfil the following conditions, namely:-

(a) that the industrial undertaking is owned and managed by a Bangladeshi company, or a body corporate formed in pursuance of an Act of Parliament, having its registered office in Bangladesh;

(b) that it belongs to such class of industries as the Board may, by notification in the official Gazette, specify in this behalf;

(c) that the particulars required for the purpose of entitlement to, or claiming accelerated depreciation allowance under this paragraph have been furnished; and

(d) that the application in the prescribed form for accelerated depreciation allowance under this paragraph, as verified in the prescribed manner, is made to the Board within [1][six months] from the end of the month of commencement of commercial production; and the application is accompanied by a declaration in writing that the undertaking has not been approved for, and that no application in respect of the undertaking has been made or shall be made to the Board for approval of, exemption from payment of tax [2][under section 45 or 46A or 46B] of this Ordinance for any period.

(3) The machinery or plant on which accelerated depreciation has been allowed under this paragraph shall not be entitled to any other depreciation allowance under this Ordinance or the Income-tax Act,1922 (XI of 1922).

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[1] *Subs. for "four months" by F.A. 2000*
[2] *Subs. for. "under section 45 or 46A" by F.O. 2008*

[1]**[7A. Accelerated depreciation allowance on machinery and plant.-** (1) In the case of machinery or plant (other than office appliances and road transport vehicles) which not having been previously used in Bangladesh, has been or is used-

(a) in the expansion unit set-up between the first day of July, 1995 and the thirtieth day of June, [2][2005] (both days inclusive) in any existing undertaking enjoying exemption from tax under section 46A; or

(b) between the first day of July, 1995 and the thirtieth day of June, [3][2005] (both days inclusive) in the treatment and disposal of toxic and environmentally hazardous wastes or in the collection or processing of bio-degradable wastes or in the research and development in any industrial undertaking owned and managed by a company as defined in clause (20) of section 2, an amount by way of accelerated depreciation allowance shall, subject to the conditions set out in sub-paragraph (2), be allowed and computed as follows, namely:-

(i) for the first year in which the expansion unit starts commercial production or operation or, as the case may be, the undertaking starts operation,	..	80 per cent. of the actual cost of the machinery or plant to the assessee;
(ii) for the next following year	...	20 per cent. of the actual cost of the machinery or plant to the assessee.

Explanation.- For the purposes of this paragraph, "expansion unit" means the expansion of an existing undertaking if such expansion constitutes-

(a) an identifiable unit for production or operation of similar or other goods or class of goods or services;

(b) a similar unit carrying on an identifiable industrial process, but does not include an undertaking which is formed by splitting up or reconstruction of an existing business or by transfer of machinery or plant of an existing business in Bangladesh to a new business.

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[1] *Ins by F.A. 1995*
[2] *Subs. for "2000" by F.A. 20003*
[3] *Subs. for "2000" by F.A. 2000*

(2) The undertaking referred to in clause (a) or (b) of sub-paragraph (1) shall fulfill the following conditions, namely:-

(a) that the application in the prescribed form for accelerated depreciation allowance under this paragraph, as verified in the prescribed manner, is submitted to the Board within six months from the end of the month of commencement of commercial production or operation; and

(b) that the particulars required for the purpose of entitlement to, or claiming accelerated depreciation allowance under this paragraph have been furnished.

(3) The Board shall give its decision on an application under sub-paragraph (2) (a)within three months from the date of receipt of the application by the Board, failing which accelerated depreciation shall be deemed to have been allowed by the Board for the purposes of this paragraph.

(4) The machinery or plant on which accelerated depreciation is allowed under this paragraph shall not be entitled to any other depreciation allowance under this Ordinance.

(5) The Board may, on an application by any person aggrieved by any decision or order passed under sub-paragraph (3), if the application is made within four months of the receipt of such decision or order, review the previous decision or order and pass such order in relation thereto as it thinks fit.]

[1]**[7B. Accelerated depreciation allowance on machinery and plant.-** (1) In the case of any machinery or plant (other than office appliances and road transport vehicles) which, not having been previously used in Bangladesh, has been or is used in an industrial undertaking as referred to in section 46B of the Ordinance and set up in Bangladesh between the first day of July, 2014 and the thirtieth day of June, 2019 (both days inclusive), an amount by way of accelerated depreciation allowance shall, subject to the conditions set out in sub-paragraph (2), be allowed and computed as follows, namely :-

(a) for the first year in which the undertaking starts commercial production	fifty per cent of the actual cost of plant and machinery to the assessee
(b) for the second year --	thirty per cent of the actual cost of plant and machinery to the assessee
(c) for the third year --	twenty per cent of the actual cost of plant and machinery to the assessee.

[1] *Ins. by F.A. 2014*

(2) The industrial undertaking referred to in sub-paragraph (1) shall fulfil the following conditions, namely:-

(a) that the industrial undertaking is owned and managed by a Bangladeshi company, or a body corporate formed in pursuance of an Act of Parliament, having its registered office in Bangladesh;

(b) that it belongs to the industrial undertaking as specified in sub-section (2) of section 46B;

(c) that the particulars required for the purpose of entitlement to, or claiming accelerated depreciation allowance under this paragraph have been furnished; and

(d) that the application in the prescribed form for accelerated depreciation allowance under this paragraph, as verified in the prescribed manner, is made to the Board within six months from the end of the month of commencement of commercial production; and the application is accompanied by a declaration in writing that the undertaking has not been approved for, and that no application in respect of the undertaking has been made or shall be made to the Board for approval of, exemption from payment of tax under section 46B or 46C of this Ordinance for any period.

(3) The machinery or plant on which accelerated depreciation has been allowed under this paragraph shall not be entitled to any other depreciation allowance under this Ordinance.]

8. Special depreciation allowance on ships.- (1) in the case of-

(a) a ship, being a passenger vessel, plying ordinarily on inland waters, or a fishing trawler registered in Bangladesh, which has been or is brought into use in Bangladesh, for the first time on any day between the 1st day of July, 1982 and the thirtieth day of June, 1995 (both days inclusive), and is the property of the assessee, or

(b) a ship registered in Bangladesh, not being a ship ordinarily plying on inland waters, which has been or is brought into use in Bangladesh for the first time on any day between the 1st day of July, 1982 and the thirtieth day of June, 1995 (both days inclusive),

and is the property of the assessee, an amount by way of special depreciation allowance shall, subject to the conditions set out in sub-paragraph (2), be allowed and computed as follows, namely :-

(i) for the first year ... 40 per cent of the original cost;

(ii) for the second year ... 30 per cent of the original cost;

(iii) for the third year ... 30 per cent of the original cost.

(2) For the purposes of special depreciation allowance under sub-paragraph (1), the following conditions shall be fulfilled, namely :-

(a) that the ship conforms to such specifications as the Government may, by notification in the official Gazette, specify in this behalf; and

(b) that the particulars required for the purpose of entitlement to or claiming special depreciation allowance under this paragraph have been furnished.

(3) Any ship including a passenger vessel or a fishing trawler on which special depreciation has been allowed under this paragraph shall not be entitled to any other depreciation allowance under this Ordinance or the Income-tax Act, 1922 (XI of 1922).

9. Limitation in respect of allowance for depreciation.- (1) The aggregate of the allowances for depreciation allowed under this Ordinance or the Income-tax Act, 1922 (XI of 1922), in respect of any asset, shall not exceed the original cost of the asset.

(2) Where full effect cannot be given to depreciation allowances under this Schedule in the year in which it is admissible there being no income chargeable for that year or such income being less than the allowance admissible, then, subject first to carrying forward of the loss, if any, under section 38, the allowances or the part thereof to which effect has not been given shall be added to the amount of the allowance for the following year or, if no allowance is admissible for such following year, shall be deemed to be allowance admissible for such year and so on for succeeding years till such time as the entire allowance on this account is adjusted against the profits.

10. Disposal of assets and treatment of gains or losses thereof.- Where in any income year any asset representing any building, machinery or plant is disposed of by an assessee-

(a) no allowance for depreciation under paragraph 3, 4, 6, 7 or 8 shall be allowed in respect thereof in that year;

(b) where the sale-proceed exceed the written down value of such asset, so much of the excess as does not exceed the difference between the original cost and the written down value, shall be deemed to be income of the assessee of that income year chargeable under the head "Income from business or profession";

(c) where the sales-proceeds are less than the written down value of such asset, the deficit shall be deemed to be an expenditure, deductible from the profits and gains of business or profession of that year; and the business or profession in which such building, machinery or plant was used before its disposal, shall be deemed to be carried on by the assessee during that year, and the provisions of this Ordinance shall apply accordingly :

Provided that the deficiency is actually written off in the books of accounts of the assessee.

[1]**[10A. Amortization of license fees.- (1)** Where an assessee, being a resident company, paid any sum as [2][license fees before or after] the first day of July, 2012 wholly and exclusively for the purpose of obtaining a permission from any authority authorised by the government applicable for two or more years to run a business, the assessee shall be allowed a deduction of an amount proportionate to such years and such deduction shall continue till the last year of the period for whcih the license was granted.

(2) For the purpose of this paragraph, 'license fees' means Spectrum Assignment fees [3][, GSM license fees, license acquisition fees or license renewal fees] paid by a cellular mobile phone operator [4][:

Provided that the amortization of fees shall be allowed from assessment year 2013-2014.]

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[1]*Ins. sec (10A) by F.A. 2013*
[2]*Subs.by F.A. 2014*
[3]*Ins. by F.A. 2014*
[4] *Ins. by F.A. 2014*

11. Definitions.- For the purposes of this Schedule,-

(1) "furniture" includes fittings;

(2) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purpose of business or profession;

(3) "sale-proceeds" means-

(a) where the asset is actually sold, the sale prices thereof or the fair market value, whichever is the higher;

(b) where the asset is transferred by way of exchange, the fair market value of the asset acquired through such transfer;

(c) where the asset is transferred otherwise than by sale or exchange, the consideration for such transfer;

(d) where an asset is discarded, demolished, destroyed or lost, scrap value, or the amount realised by the disposal thereof together with any insurance, compensation or salvage money received or receivable in respect therefor;

(e) where the asset is compulsorily acquired under any law for the time being in force in Bangladesh, the compensation paid thereof;

(f) where the asset ceases to be used by the assessee for the purposes of his business or profession, the fair market value thereof at the time of such cessation;

(g) where any machinery of plant, after having been used in Bangladesh in the execution of any contract or otherwise, is exported or transferred outside Bangladesh, the original cost thereof less [1][the "normal depreciation" allowed under paragraph 3 of this Schedule]; or the depreciation allowances allowed under section 10(2) (vi) of the Income tax Act, 1922 (XI of 1922), except the further sum referred to therein; and in each such case the asset shall for the purpose of paragraph 10, be deemed to have been disposed of by the assessee:

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[1] Subs. for "the "normal depreciation" and "extra depreciation" in any, allowed under paragraph 3 and 4 or this Schedule by F.A. 1999

Provided that where the actual cost of a motor vehicle not plying for hire, is, in accordance with clause (6) (a), taken to be [1][twenty lakh taka], the sale-proceeds thereof shall be taken to be a sum which bears to the amount for which the said vehicle is sold, together with any insurance, salvage or compensation money received or receivable, or as the case may be, scrap value in respect thereof, at the same proportion as the said sum of [2][twenty lakh taka] bears to the actual cost of the said vehicle to the assessee, had the said sub-clause not been applicable to such vehicle.

Explanation.-In the proviso, "sold" includes a transfer by way of exchange or otherwise or a compulsory acquisition under any law for the time being in force;

(4) "Ship" includes a steamer, motor vessel, sail, tug boat, iron or steel flat for cargo, wooden cargo boat, motor launch and speed boat;

(5) "written down value" means-

(a) where the assets were acquired in the income year, the actual cost thereof to the assessee;

(b) where the assets were acquired before the income year, the actual cost thereof to the assessee as reduced by the aggregate of the allowances for depreciation allowed under this Ordinance, or the Income-tax Act, 1922 (XI of 1922), in respect of the assessments for earlier year or years;

(6) For the purposes of clause (5),-

(a) in the case of motor vehicles, being passenger vehicles or sedan cars, not plying for hire, the actual cost to the assessee shall be deemed not to exceed [3][twenty lakh taka];

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[1] Subs. for "seven lakh fifty thousand taka" by F.A. 2000 again subs. for "ten lakh taka" by F.A. 2009

[2] Subs. for "seven lakh fifty thousand taka" by F.A. 2000 again subs. for "ten lakh taka" by F.A. 2009

[3] Subs. for "seven lakh fifty thousand taka" by F.A. 2000 again subs. for "ten lakh taka" by F.A. 2009

(b) in computing the actual cost of an asset, the amount of any grant, subsidy, rebate or commission and the value of any assistance (not being in the nature of any loan repayable with or without interest) received by an assessee from Government or any other authority or person, and any deduction or allowance admissible under this Ordinance or the Income tax Act, 1922 (XI of 1922), shall be excluded;

(c) where, before the date of acquisition by the assessee, any such asset had at any time been used by any person for the purposes of his business or profession, the actual cost to the assessee shall, except in any case where sub-clause (d) applies, be deemed not to exceed the fair market value thereof;

(d) where any assessee has succeeded another person in business or profession by inheritance, or where the provisions of section 88 apply, the written down value of an asset shall be computed as if no succession had taken place;

(e) where an assessee has acquired any plant or machinery (hereinafter referred to as "asset") from a country outside Bangladesh for installation in Bangladesh for the purposes of his business or profession and, in consequence of a change in the rate of exchange at any time after the acquisition of such asset and before full and final payment of any foreign loan, there is an increase or reduction in the liability of the assessee as expressed in Bangladesh currency for making payment towards the whole or a part of the money borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purposes of acquiring the asset (being in either case, the liability existing immediately before the date on which change in the rate of exchange takes effect), the amount by which the liability aforesaid is so increased or reduced during the income year shall be added to, or as the case may be, deducted from the actual cost of the assets, and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset;

(f) where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of clause (e); and

(g) where the assessee has entered into a contract with an authorised dealer for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this sub-clause shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein.

***Explanation*.-** For the purposes of this clause-

(a) "rate of exchange" means the rate of exchange determined or recognised by the Government for the conversion of Bangladesh currency into foreign currency or foreign currency into Bangladesh currency; and

(b) "authorised dealer", "foreign currency" and "Bangladesh currency" have the same meaning as in the Foreign Exchange Regulation Act. 1947 (VII of 1947).

THE FOURTH SCHEDULE
COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS
[See section 28(2)(a)]

1. **Profits of life insurance to be computed separately.-** In the case of any person who carries on, or at any time in the income year carried on, life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business.

2. **Computation of profits and gains of life insurance business.-** The profits and gains of life insurance business, other than pension and annuity business, shall be taken to be either-

   (a) the gross external incomings of the income year from that business less the management expenses of that year, or

   (b) the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may, under the provisions of section 29 of this Ordinance, be allowed for, in computing the profits and gains of a business, whichever is the greater:

   Provided that the amount to be allowed as management expenses shall not exceed-

   (a) 7 $^{1}/_{2}$ per cent. of the premiums received during the income year in respect of single premium life insurance policies, plus

   (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for the number of years during which premiums are payable is less than twelve, for each such premium or each such year, 7 $^{1}/_{2}$ per cent. of such first year's premium or premium received during the income year, plus

(c) 90 per cent of the [1][first year's premium received during the] income year in respect of all other life insurance policies, plus

(d) 12 per cent. of all renewal premiums received during the income year.

3. **Computation of profits and gains of pension and annuity business.-** The profits and gains of pension and annuity business shall be taken to be the annual average of the surplus computed in the manner laid in paragraph 2(b).

4. Deductions.- In computing the surplus,-

(a) under paragraph 2(b), for the purpose of life insurance business, three-fourths of the amounts paid to or reserved for or expended on behalf of policy-holders, shall be allowed as a deduction, and under paragraph 3, the amounts paid to or reserved for or expended on behalf of the members of an approved superannuation fund shall be allowed as a deduction :

Provided that in the first such computation made under this paragraph of any such surplus, no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period :

Provided further that if any amount so reserved for policy-holders or members of an approved superannuation fund, as the case may be, ceases to be so reserved, and is not paid to or expended on behalf of policy-holders or members of an approved superannuation fund, as the case may be, one-half or three-fourths of such amount or the entire amount, as the case may be, if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved;

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[1] *Subs. for. "first" by Corrigendum issued vide Bangladesh Gazette, dated 19th August, 1984*

(b) any amount either written off or reserved in the accounts or through the actuarial valuation balance-sheet to meet depreciation of or loss on the realisation of securities or other assets, shall be allowed as a deduction and any sums taken credit for in the accounts or actuarial valuation balance-sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus :

Provided that if, upon investigation, it appears to the Deputy Commissioner of Taxes after consultation with the Controller of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policy is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets as shall increase the surplus for the purposes of these paragraphs to a figure which is fair and just;

[1][(c) interest received in respect of any securities of the Government which have been issued with the condition that interest thereon shall not be liable to tax shall be excluded.]

5. Adjustment of tax paid by deduction at source.- Where for any year an assessment of the profits and gains of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with section 62 for the tax paid in the income year, but credit shall be given for the annual average of the tax paid by deduction at source from interest on securities or otherwise during such period.

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[1] *Subs. by F.A. 1995*

6. Computation of profits and gains of other insurance business.- [1][(1) The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, which are required to be prepared complying the provisions of the [2][বীমা আইন, ২০১০ (২০১০সনের ১৩ নং আইন) (Insurance Act, 2010) (Act No. 13 of 2010)], after adjusting such balance so as to exclude from it any expenditure, other than expenditure which may under the provisions of section 29 of the Income tax Ordinance, 1984 be allowed for, in computing the profits and gains of a business. Profits and losses on the realisation of investments, and depreciation and appreciation of the value of investments shall be dealt with as provided in paragraph 4 for the business of life insurance.]

(2) Where a company sets aside a portion of its income, profits and gains to meet exceptional losses, so much of such portion as does not exceed ten per cent of the premium income of the year in which it is set aside shall be deducted from the balance of the profits referred to in sub-paragraph (1).

(3) The amount deducted under sub-paragraph (2) in any year, together with the amounts, if any, deducted or carried to a reserve in earlier years to meet exceptional losses (as reduced by the amounts, if any, paid out of such amounts or reserve to meet exceptional losses) shall not exceed the premium income of that year or the average premium income of the three years immediately preceding that year, whichever is the higher.

(4) Notwithstanding anything to the contrary contained in this Ordinance, where any amount is paid, appropriated or diverted out of, or from the amounts deducted under sub-paragraph (2) for purposes other than the meeting of an exceptional loss, such amount shall, together with the other premium income, if any, of the company for the year in which such payment, appropriation or diversion takes place, be deemed to be the premium income of the company for that year; and in the event of the liquidation of the company or the discontinuance of the business to which this paragraph applies, whichever is the earlier, the aggregate of the amounts deducted under sub-paragraph (2) (as reduced by the payments made out of such amounts to meet exceptional losses) shall, together with the other income, if any, of the company for the year in which it goes into liquidation or in which such business is discontinued, be deemed to be the income of the company for that year.

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[1] *Subs. by F.A. 2005*
[2] *Subs. for "insurance Act, 1938 (IV of 1938)" by F.A. 2012*

Explanation.-For the purposes of this paragraph, "exceptional loss" means the amount by which the aggregate loss in any year exceeds fifty per cent. of the premium income of that year or fifty per cent. of the average premium income of the three years immediately preceding that year, whichever is the higher, total world income of the company corresponding to the proportion which its premium income derived from Bangladesh bears to its total premium income. For the purposes of this paragraph, the total world income of life insurance companies not resident in Bangladesh whose profits are periodically ascertained by actuarial valuation, shall be computed in the manner laid down in these paragraphs for the computation of the profits and gains of life insurance business carried on in Bangladesh.

7. Profits and gains of non-resident person.- The profits and gains of the branches in Bangladesh of an insurance company not resident in Bangladesh in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its premium income derived from Bangladesh bears to its total premium income. For the purpose of the paragraph, the total world income of life insurance companies not resident in Bangladesh whose profits are periodically ascertained by actual valuation shall be computed in the manner laid down in these paragraphs for the computation of the profits and gains of the life insurance business carried on in Bangladesh.

8. Mutual Insurance Associations.- These paragraph apply to the assessment of the profits of any business of insurance carried on by a mutual insurance association.

9. Definition.- For the purposes of this Schedule.-

(a) "gross external incomings" means the full amount and incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premium received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities or other assets :

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (2) of section 28 would have been assessable under section 24, shall be computed upon the basis laid down in the last named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section;

(b) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto, a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of securities or other assets and any expenditure other than expenditure which may under the provisions of section 29 be allowed in computing the profits and gains of a business are not management expenses for the purposes of this Schedule;

(c) "life insurance business" means life insurance business as defined in section [1][5(2) of বীমা আইন, ২০১০ (২০১০সনের ১৩ নং আইন)];

(d) "securities" includes stocks and shares;

(e) "pension and annuity business" means any life insurance business relating to a contract with the trustees of an approved superannuation fund, where such contract is-

(i) entered into only for the purposes of such fund, and

(ii) so framed that the liabilities undertaken thereunder by the person carrying on the insurance business correspond with the liabilities against which the contract is intended to secure such fund.

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[1] *Subs. for "2(II) of the Insurance Act, 1938 (IV of 1938)" by F.A. 2012*

THE FIFTH SCHEDULE
PART A
COMPUTATION OF THE PROFITS OR GAINS FROM THE EXPLORATION AND PRODUCTION OF PETROLEUM AND THE DETERMINATION OF THE TAX THEREON
[See section 28 (2)(b)]

1. **Profits from exploration and production of petroleum to be computed separately.-** Where any person carries on or is deemed under an agreement with the Government to be carrying on any business which consist of or includes exploration and production of petroleum, the profits or gains of such person therefrom shall be computed separately from his income, profits or gains from any other business.

2. **Computation of profits.-** Subject to the provisions of section 29, the profits and gains for the purposes of paragraph 1, shall be computed after making the following additional allowances, namely:-

   (a) where a person incurs any expenditure on searching for, or on discovering and testing a petroleum deposit or winning access thereto, but the search, exploration or enquiry upon which the expenditure is incurred is given up before the commencement of commercial production, such expenditure allocable to a surrender area and to the drilling of a dry hole shall be deemed to be lost at the time of the surrender of the area or the completion of the dry hole, as the case may be. A portion of such loss as provided for any agreement between any such person and the Government, shall be allowed in either of the following ways:-

      (i) such portion of the said loss in any year shall be set off against income, profits or gains from business or under any other head of income, other than income from dividend, of that year. If the loss cannot be wholly set off in this manner, the portion not so set off shall be carried forward to the following year and set off against such income, profits or gains, for that year in the same manner, and if it cannot be wholly so set off, the amount not so set off shall be carried forward to the following year and so on; but no loss shall be so carried forward for more than six years;

(ii) such portion of the said loss in any year shall be set off against income, profits or gains of the same business of the income year in which commercial production commences. If the loss cannot be wholly set off against the profit of the same business for that year, the loss not so set off shall be carried forward to the following year and set off against the profits or gains, if any, of the assessee from the same business for that year; and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on; but no loss shall be so carried forward for more than ten years;

(b) after the commencement of commercial production, all expenditure prior thereto not deemed to be lost under clause (a) and not represented by physical assets in use at the time the commercial production commenced, shall be allowed as deductions. The portion of such deduction to be allowed in any year shall be such amount (not being greater than 10 per cent. of the aggregate amount deductible) as may be selected by the assessee;

(c) expenditure incurred after the commencement of commercial production in connection with production and exploration shall be allowed as a deduction:

Provided that such expenditure on asset with respect to which depreciation is allowable shall not be deducted, and depreciation shall be allowable on such assets in accordance with the provisions of the Third Schedule. Depreciation shall also be allowed in respect of the expenditure referred to in the preceding clause on physical assets acquired prior to the date on which commercia production commenced, which were in use on that date, as if the assets were newly acquired at their original cost at the time of commencement of commercial production:

Provided further that where any depreciation allowance has been allowed before the commencement of commercial production, the original cost as aforesaid shall be reduced by the amount of such allowance;

(d) if, in any year, the deductions admissible under section 29 and the foregoing clauses (b) and (c) of this paragraph, exceed the gross receipts from the sale of petroleum produced in Bangladesh such excess shall be set off against other income, not being a dividend, and carried forward in the manner and subject to the limitations laid down in sections 37, 38 and 42.

3. Depletion allowance.- In determining the profits or gains for any year ending after the date on which commercial production commenced, an additional allowance shall be made equal to 15 per cent. of the gross receipts representing the well-head value of the production from the business or part of the business to which the provisions of this Part apply:

Provided that such allowance shall not exceed one-half of the profits or gains as computed without the deduction of such allowance.

4. Payments to the Government and taxes.- (1) The sum of payments to the Government and taxes on income in respect of the profits or gains derived from the business or part of the business to which the provisions of this Part apply, for any year of assessment, shall be as provided for in the agreement with the assessee .[1][***]

(2) For the purposes of this paragraph, "payments to the Government" means amounts payable to the Government or to any governmental authority in Bangladesh,-

[2][(a)***]

(b) in respect of any tax or levy imposed in Bangladesh particularly applicable to oil production or to extractive industries, or any of them, and not generally imposed upon all industrial and commercial activities.

5. Adjustments of payments to the Government and taxes.- If in respect of any year, the aggregate of the sum of payments to the Government and taxes on income is greater or less than the amount provided for in the agreement referred to in paragraph 4(1), an additional income tax shall be payable by the assessee or an abatement of tax shall be allowed to the assessee, as the case may be, so as to make the aggregate of the sum of payments to the Government and taxes on income equal to the amount provided for in the agreement.

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[1] Omitted by F.A. 1989
[2] Omitted by F.A. 1989

6. Carry forward of excess payments.- If, in respect of any year, the payments to the Government exceed the amount provided for in the agreement referred to in paragraph 4(1), so much of the excess as consist of any tax or levy referred to in paragraph 4(2)(b) shall be carried forward and treated as payments to the Government for the purposes of paragraph 4 and 5 for the succeeding year.

7. Sale price of oil.- For the purposes of computing income under this Part, the "well-head value" shall be adopted as the sale price of the oil.

8. Definitions.- For the purposes of this Part,-

(a) "commercial production" means production as determined by the Government;

[1][(b) "petroleum" has the same meaning as assigned to it in Bangladesh Petroleum Act, 1974 (LXIX of 1974), but does not include refined petroleum products;]

(c) "surrender" means the termination of right with respect to an area including the expiration of rights according to the terms of an agreement;

(d) "surrendered area" means an area with respect to which the rights of a person have terminated by surrender or by assignment or by termination of the business;

(e) "well-head value" has the meaning assigned to it in the agreement between the assessee and the Government and, in the absence of its definition in the agreement, the meaning assigned to it in the Petroleum (Production) Rules, 1949.

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[1] *Subs. by F.A. 1989*

THE FIFTH SCHEDULE
PART B
COMPUTATION OF PROFITS AND GAINS FROM THE EXPLORATION AND EXTRACTION OF MINERAL DEPOSITS (OTHER THAN OIL AND OIL GAS) IN BANGLADESH
[See section 28(2) (c)]

1. **Profits from exploration and extraction of mineral deposits to be computed separately.-** Where any person carries on the business of the exploration or extraction of mineral deposits of a wasting nature other than oil and oil gas in Bangladesh, the profits and gains of such business, shall be computed separately from his income, profits or gains from other business, if any, and such business shall, for the purposes of these paragraphs, be treated as a separate undertaking (hereinafter referred to as such undertaking).

2. **Computation of profits.-** (1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in accordance with the provisions of section 29.

   (2) All expenditure on prospecting and exploration incurred by such undertaking up to the stage of commercial production shall, to the extent it cannot be set off against any other income of the said undertaking or any other income in accordance with section 37, be treated as a loss.

   (3) The loss computed in the manner specified in sub-paragraph (2) shall be set off against the income of such undertaking after the commencement of commercial production so, however, that if it cannot be wholly set off against the income, profits or gains of the said undertaking for the income year in which the commercial production was commenced, the portion not so set off shall be carried forward to the following year, and so on; but no loss shall be carried forward for more than ten years beginning with the year in which commercial production was commenced.

(4) Notwithstanding the provisions of paragraph 3 and 6 of the Third Schedule, after the commencement of commercial production, depreciation allowance in respect of machinery and plant purchased or acquired for extracting the ore shall be allowed as a deduction against profits and gains of the year in which they are used for the first time in an amount equal to the original cost of such asset; where such allowance cannot be made in full in any year owing to there being no profits or gains chargeable for that year or owing to the profits and gains so chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of allowance for depreciation for the following year and deemed to be part of that allowance or, if there is no allowance for that year, be deemed to be allowance for that year, and so on for succeeding year :

Provided that where any loss has also to be carried forward under sub-paragraph (3) effect shall be given to that paragraph.

3. Depletion allowance.- (1) In computing the profits and gains of such undertaking for any year, an additional allowance (hereinafter referred to as the depletion allowance) shall be made equal to 15 per cent. of the total income of such undertaking (before the deduction of such allowance) or 50 per cent. of the capital employed in such undertaking (such capital being computed in accordance with such provisions as may be made by the Board for the purpose of this paragraph), whichever is the less.

(2) No deduction on account of the depletion allowance shall be allowed under sub-paragraph (1) unless an amount equal to the depletion allowance is debited to the profit and loss account of the relevant income year and credited to a reserve account to be utilised for the development and expansion of such undertaking.

(3) Where an allowance by way of depletion allowance has been made in any year and subsequently it is utilised for a purpose not specified in sub-paragraph (2), the amount originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner of Taxes may, notwithstanding anything contained in this Ordinance, recompute the total income of the assessee for the relevant income year and the provisions of sections 93 and 94 shall, so far as may be, apply thereto, the period of four years specified in section 94 being reckoned from the end of the income year in which the amount was so utilised.

4. Tax exemption of profits from refining or concentrating mineral deposits.- (1) Where such undertaking is also engaged in the business of refining or concentrating in Bangladesh the mineral deposits extracted by it in Bangladesh, so much of the profits and gains (hereinafter referred to in subparagraph (2) as the said amount of profit and gains) derived from such business as does not exceed five percent of the capital employed in such business, such capital being computed in accordance with such rules as may be made by the Board for the purposes of this paragraph, shall be exempt from tax.

(2) Where the profits and gains of such business, computed for any year of assessment cover a period which is less or more than one year, the amount of profits and gains exempt under sub-paragraph (1) shall be the amount which bears the same proportion to the said amount of profits and gains at the same proportion as the said period bears to a period of one year.

(3) The profits and gains of the business to which this paragraph applies shall be computed in accordance with the provisions of sections 28 and 29.

(4) Nothing contained in this paragraph shall apply to an undertaking which is formed by the splitting up, or the reconstruction of, a business already in existence, or by the transfer to a new business of any building, machinery or plant used in a business which was being carried on, on or before the first day of July, 1983.

(5) The provisions of this paragraph shall apply to the assessment for the year next following the income year in which commercial production is commenced, or the loss under paragraph 2(3) or allowance, if any, under paragraph 2(4), as the case may be, has been set off or deducted in full, whichever is the later, and for the next following four years.

THE SIXTH SCHEDULE
PART A
EXCLUSIONS FROM TOTAL INCOME
[See section 44(1)]

1. (1) Any income derived from [1][house property] held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of [1][house property] so held in part only for such purposes, the income applied, or finally set apart for application, thereto.

[2]***[Explanation.-*** The provisions of this paragraph shall not apply in the case of a non-government organisation registered with NGO Affairs Bureau].

(2) Where any income is not applied or is not deemed to have been applied to charitable or religious purposes in Bangladesh during the income year but is accumulated, or finally set apart, for application to such purposes in Bangladesh, such income shall not be included in the total income of the income year of the person in receipt of the income, provided the following conditions are complied with, namely,-

(a) such person specifies, by notice in writing given to the Deputy Commissioner of Taxes, the purpose for which the income is being accumulated or set apart, and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

(b) the money so accumulated or set apart is-

(i) invested in any Government security as defined in section 2(2) of Public Debt Act, 1944 (XVIII of 1944), or in any other security which may be approved by the Government in this behalf, or

(ii) deposited in any account with the Post Office Savings Bank [3][,or

(iii) deposited in any account with scheduled bank of which fifty one per cent or more shares are held by the government.]

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[1] *Subs. for "property" by F.A. 2001*
[2] *Ins. by F.A. 2002*
[3] *Subs. " , or " for " full-stop" and ins. new sub-clause (iii) by F.A. 2011*

(3) Where any income which-

(a) is applied to purposes other than charitable or religious purposes or ceases to be accumulated or set apart for application thereto, or

(b) ceases to remain invested in any security or deposited in any account referred to in sub-paragraph (2), or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in sub-paragraph (2) or in the year immediately following the expiry thereof,

shall be deemed to be the income of such person of the income year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or, as the case may be, of the income year immediately following the expiry of the period aforesaid.

[1]*[Explanation.-***]*

[2]**[**1A. Any service charge derived from operation of micro credit by a non-government organisation registered with NGO Affairs Bureau.

Explanation.- For the purpose of this paragraph, "service charge" means any financial charge or interest or share of profit, called by whatever name, paid or payable by the loan recipient for the amount borrowed under micro credit programme from the non-government organisation].

2. [3]**[**Any voluntary contributions received by a religious or charitable institution] and applicable solely to religious or charitable purposes:

Provided that nothing contained in paragraph 1 or 2 shall operate to exempt from the provisions of this Ordinance that part of the total income of a private religious trust which does not ensure for the benefit of the public.

[4]**[3.** The income of a local government.]

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[1] *Explanation omitted by F.A. 1999*

[2] *Subs. by F.A. 2014*

[3] *Subs. by F.A. 2014*

[4] *Subs. by F.A. 2000*

4. (1) Any income accruing to, or derived by, a provident fund to which the Provident Fund Act, 1925 (XIX of 1925), applies.

(2) Any income accruing to, or derived by, workers participation fund established under the [1][বাংলাদেশ শ্রম আইন, ২০০৬ (২০০৬ সনের ৪২ নং আইন), Bangladesh Labour Act, 2006 (Act No. XLII of 2006)], subject to any such conditions and limits as may be prescribed.

5. Any special allowance, benefits or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

[2]**[6.** Any income received by the trustees on behalf of a recognised provident fund, an approved superannuation fund [3][or pension fund] and an approved gratuity fund.]

7. Any income received- (a) by any ambassador, high commissioner, envoy, minister, charge d'affairs, commissioner, counsellor, consul de carriere, secretary, adviser or attache of an embassy, high commission, legation or commission of a foreign State, as remuneration from such State for service in such capacity;

(b) by a trade commissioner or other official representative in Bangladesh of a foreign State (not holding office as such in an honorary capacity) as his official salary, if the official salary of the corresponding officials, if any, of the Government, resident for similar purposes in the country concerned, enjoy a similar exemption in that country;

(c) by a member of the staff of any of the officials referred to in clauses (a) and (b), as his official salary, when such member is not a citizen of Bangladesh and is either a subject of the country represented or a subject of some other foreign State and is not engaged in any business or profession or employment in Bangladesh otherwise than as a member of such staff, and the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government of the People's Republic of Bangladesh in that country.

[4]**[8.** Any pension due to, or received by, an assessee.]

[5]**[(9.)***]**

[6]**[(10.)***]**

[1] Subs. by F.A. 2014

[2] Subs. by F.A. 1993

[3] Ins. by F.A. 2012

[4] Subs. by F.A. 2003

[5]Omitted by F.A. 2002. [6]Paragraph 10 omitted by F.A. 1990

[1][(11.)*]**

[2][11A. Income from dividend amounting to [3][twenty thousand] taka.]

[4] [(12.)***

(13.)*]**

14. Any income chargeable under the head "Income from property,"- (a) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1975 and the thirtieth day of June, 1980 (both days inclusive), and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits, namely,-

(i)	in a case where the annual value of such building does not exceed eight thousand and four hundred taka,	-	the whole of such value;
		-	
(ii)	in a case where the annual value of such building exceeds eight thousand and four hundred taka,	-	eight thousand and four hundred taka:

Provided that where an assessee claims exemption in respect of more than one such building, the exemption under this clause shall be restricted to such portion of the aggregate annual value of such building as does not exceed eight thousand and four hundred taka;

(b) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1980 and the thirtieth day of June, 1985 (both days inclusive), and the building is intended to be and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits, namely,-

(i)	in a case where the annual value of such building does not exceed fifteen thousand taka,	-	the whole of such value;
(ii)	in a case where the annual value of such building exceeds fifteen thousand taka,	-	fifteen thousand taka:

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[1] Paragraph 11 omitted by F.A. 1991
[2] Ins. new paragraph 11A by F.A. 2012
[3] Subs. for "ten thousand" by F.A. 2014
[4] Paragraph 12 and 13 omitted by F.A. 2011

Provided that where an assessee claims exemption in respect of more than one such building, exemption under this clause shall be restricted to such portion of the aggregate annual value of such building as does not exceed fifteen thousand taka;

(c) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1975 and the thirtieth day of June, 1980 (both days inclusive), and which is intended to be and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the condition that the plinth area of the building is not more than two thousand square feet. The exemption under this clause shall also apply in the case of housing companies, societies and estates where the construction comprises bungalows, flats, apartments or units (hereinafter referred to as units) each containing plinth area of not more than two thousand square feet provided the construction comprises not less than twenty-five units;

(d) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1980 and the thirtieth day of June, 1985 (both days inclusive), and which is intended to be, and is actually, used for residential purpose only, for a period of five years from the date of such completion, subject to the condition that the plinth area of the building is not more than one thousand square feet. The exemption under this clause shall also apply in the case of housing companies, societies and estates where the construction comprises bungalows, flats, apartments or units (hereinafter referred to as unit) each containing plinth area of not more than one thousand square feet provided the construction comprises not less than twenty-five units;

[1][(e) in respect of building the erection of which is begun and completed at any time between the first day of July, 1985 and the thirtieth day of June, 1990 (both days inclusive), and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits, namely :-

(i)	in a case where the annual value of such building does not exceed fifteen thousand taka,	-	the whole of such value;
(ii)	in a case where the annual value of such building exceeds fifteen thousand taka,	-	fifteen thousand taka:

[1] Ins. sub-paragraph (e) & (f) by F.O. 1985

Provided that where an assessee claims exemption in respect of more than one such building, the exemption under this clause shall be restricted to such portion of the aggregate annual value of such building as does not exceed fifteen thousand taka ;

(f) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1985 and the thirtieth day of June, 1990 (both days inclusive), and which is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the condition that the plinth area of the building is not more than one thousand square feet. The exemption under this clause shall also apply in the case of housing companies, societies and estates where the construction comprises bungalows, flats, apartments or units (hereinafter referred to as units) each containing plinth area of not more than one thousand square feet provided the construction comprises not less than twenty-five units];

[1][(g) in respect of a building the erection of which is begun and completed at any time between the first day of July,1990 and the thirtieth day of June,1995 (both days inclusive) and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion subject to the following limits, namely :-

(i)	in a case where the annual value of such building does not exceed thirty thousand taka;	-	the whole of such value;
(ii)	in a case where the annual value of such building exceeds [2][thirty thousand taka;]	-	thirty thousand taka:

Provided that where an assessee claims exemption in respect of more than one such building, the exemption under this clause shall be restricted to such portion of the aggregate annual value of such building as dose not exceed thirty thousand taka];

[3][(h)***]

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[1] *Ins. by F.A. 1990*

[2] *Subs. for "twenty thousand taka" by F.A. 1993*

[3] *Omitted by F.A. 1999*

[1]**[(15.)*****

(16.)***

(17.)***]**

18. Any income received by an assessee in respect of any share of income out of the capital gains on which tax has been paid by the firm of which the assessee is a partner.

19. Any sum received by an assessee as a member of a Hindu undivided family where such sum has been paid out of the income of the family.

20. Any income of an assessee representing payment received as gratuity.

21. Any payment from-

(a) A provident fund to which the provident Funds Act, 1925 (XIX of 1925), applies; or

(b) a recognised provident fund, subject to any such conditions and limits as may be prescribed; or

(c) an approved superannuation fund, subject to any such conditions and limits as may be prescribed; or

(d) a workers participation fund established under the [2][বাংলাদেশ শ্রম আইন, ২০০৬ (২০০৬ সনের ৪২ নং আইন), Bangladesh Labour Act, 2006 (Act No. XLII of 2006)] , subject to any such conditions and limits as may be prescribed.

[3]**[(22).*****]**

[4]**[22A**. Income from dividend of a mutual fund or a unit fund up to taka twenty five thousand.]

[5]**[(23).*****]**

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[1] Paragraphs 15, 16 and 17 omitted by F.O. 2008
2 Subs. by F.A. 2014
[3]Subs. by F.A. 2003 subsequently omitted by F.A. 2005
[4] Ins. by F.A. 2003 subsequently subs. by F.O. 2008
[5]Omitted by F.A, 1992

[1]**[24.** Any interest classifiable under the head "Interest on securities" receivable by an assessee on any security of the Government, which is issued with the condition that interest thereon shall not be liable to tax.

25. Any sum representing interest credited on the accumulated balance of an employee in a recognised provident fund, in so far as it does not exceed one-third of the salary of the employee for the year concerned and in so far as it is allowed at a rate not exceeding such rate as the Board may, by notification in the official Gazette, fix in this behalf.]

[2]**[26.** Any amount received by an employee of a Government organisation, a local authority, or an autonomous or semi-autonomous body including the units or enterprises controlled by it, at the time of his voluntary retirement in accordance with any scheme approved by the Government in this behalf.]

[3]**[27.** Notwithstanding anything contained in any order or regulation for the time being in force, any income of an individual, being an indigenous hillman of any of the hill districts of Rangamati, Bandarban and Khagrachari, which has been derived solely from economic activities undertaken within the said hill districts.

28. An amount equal to fifty per cent. of the income of an assessee, other than a company not registered in Bangladesh, derived [4][from the business of export but it shall not apply in case of an assessee, who is enjoying exemption of tax or reduction in rate of tax by any notification made under this Ordinace.]

Explanation.-- For the purpose of this paragraph,--

(a) sale of locally manufactured machinery, equipments and other finished products within the country to any agency against its procurement program in foreign exchange quota; and

(b) supply of locally manufactured raw materials and other inputs to export oriented industry under internal back-to-back letter of credit, shall also be included in the definition of "business of export."]

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[1] *Paragraph 24 and 25 ins. by F.A. 1992*
[2] *Ins. by F.A. 1993*
[3] *Paragraph 27 and 28 ins by F.A. 1995*
[4] *Subs. for "from the business of export" by F.A. 2003*

[1]**[29.** Any income, not exceeding [2][two lakh] taka, chargeable under the head "Agricultural income" of an assessee, being an individual, whose only source of income is agriculture.]

[3]**[[30).***]**

[4]**[(31.)***]**

[5]**[(31A).***]**

[6]**[(31B). ***]**

[7]**[(32.)***]**

[8][32A. Any sum or aggregate of sums received as interest from pensioners' savings certificate or wage earners bond where the total accumulated investment at the end of the relevant income year in such certificate or bond does not exceed taka five lakh.]

[9]**[33.** Any income derived from the business of [10][software development or Nationwide Telecommunication Transmission Network (NTTN) or] Information Technology Enabled Services (ITES) for the period from the first day of July, 2008 to the thirtieth day of June, [11][2019]:

Provided that the person shall file income tax return in accordance with the provisions of section 75(2)(c) of the Ordinance.

[12]**[Explanation :** Information Technology Enabled Services (ITES) means-Digital Content Development and Management, Animation (both 2D and 3D), Geographic Information Services (GIS), IT Support and Software Maintenance Services, Web Site Services, Business Process Outsourcing, Data entry, Data Processing, Call Centre, Graphics Design (digital service), Search Engine Optimization, Web Listing, E-commerce and Online Shopping, document conversion, imaging and archiving.]

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[1] *Ins. by F.A. 1996*
[2] *Subs. for "fifty thousand taka" by F.A. 2014*
[3] *Subs. by F.A. 2002 subsequently omitted by F.A. 2011*
[4] *Ins. by F.A. 1999 and subsequently omitted by F.A. 2005*
[5] *Ins. by F.A. 2003 and subsequently omitted by F.O. 2007*
[6] *Ins. by F.A. 2004 subsequently omitted by F.A. 2011*
[7] *Omitted by F.A. 2002*
[8] *Ins. by F.A. 2014*
[9] *Ins. paragraph 33, 34, 35, 36, 37, 38, 39, and 40 by F.O. 2008*
[10] *Subs. by F.A. 2014*
[11] *Subs. for "2015" by F.A. 2014*
[12] *Subs. by F.A. 2011*

34. Subject to the conditions made herender any income from fisheries, poultry, [1][***], production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, horticulture, frog faming, mushroom farming, floriculture, sericulture for the period from the first day of July, 2008 to the thirtieth day of June, 2011-

[2][(a) if such income exceeds taka one lakh and fifty thousand, the person shall invest an amount not less than ten percent of the said income in the purchase of bond or securities issued by the Government within six months from the end of the income year and hold such bond or securities till maturity of such bond or securities;]

(b) the person shall file return in accordance with the provisions of section 75(2)(c) of the Ordinance; and

(c) no such income shall be transferred within five years from the end of the income year [3][:

Provided that income from fisheries as mentioned in this paragraph shall not apply to a company as defined in clause (20) of section (2) of this Ordinance].

35. Any income derived from the export of handicrafts for the period from the first day of July, 2008 to the thirtieth day of June, [4][2015].

36. Any amount paid by the Government as tax on behalf of a petroleum exploration company engaged in exploration of petroleum products in Bangladesh under Production Sharing Contract (PSC) with the Government of Bangladesh.

37. Income of any private Agricultural College or private Agricultural University derived from agricultural educational activities.

[5][38. Any income derived from any building situated in any area of Bangladesh, not less than five storied having at least ten flats, constructed at any time between the first day of July, 2009 and the thirtieth day of June, 2014 (both days inclusive), for ten years from the date of completion of construction of the building, except the building situated in any areas of City Corporation,

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[1] Omitted by F.A. 2010
[2] Subs. by F.A. 2014
[3] Subs. " , " and Ins. new proviso by F.A. 2010
[4] Ins."2015" by F.A. 2013
[5] Subs. by F.A. 2009

Cantonment Board, Tongi Upazila, Narayanganj Paurashava, Gazipur Paurashava and any paurashava under Dhaka district.]

39. Income derived from any Small and Medium Enterprise (SME) engaged in production of any goods and having an annual turnover of not more than taka [1][thirty lakh:]

Provided that person shall file income tax return in accordance with the provisions of section 75(2)(c) of the Ordinance.

40. Any income derived from Zero Coupon Bond received by a person other than Bank, Insurance or any Financial Institution, subject to the following conditions:

(a) that the Zero Coupon Bond is issued by Bank, Insurance or any Financial Institution with prior approval of Bangladesh Bank and Securities Exchange Commission.

(b) that the Zero Coupon Bond is issued by institution other than Bank, Insurance or any Financial Institution with prior approval of Securities Exchange Commission.

[2]**[(41.)***]**.

[3][**42.** Any income from poultry farming for the period from the first day of July 2011 to the thirtieth day of June, [4][2015] subject to the following conditions :

(a) if such income exceeds taka 1,50,000/- an amount not less than 10% of the said income shall be invested in the purchase of bond or securities issued by the Government within six months from the end of the income year;

(b) the person shall file return of his income in accordance with the provisions of clause (c) of sub-section (2) of section 75 of this Ordinance; and

(c) no such income shall be transferred by way of gift or loan within five years from the end of the income year.]

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[1] *Ins. "thirty lakh" by F.A. 2013*
[2] *Omitted by F.A. 2010*
[3] *Ins. by F.A. 2011*
[4] *Subs. for "2013" by F.A. 2013*

[1]**[43.** Any profits and gains under the head "Capital Gains" arising from the transfer of stocks or Shares of a public company as defined in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) listed in any stock exchange in Bangladesh of an assessee being a non-resident subject to the condition that such assessee is entitled to similar exemption in the country in which he is a resident].

[2][**44**. An amount of income derived from cinema hall or Cineplex which starts commercial exhibition between the first day of July, 2012 and thirtieth day of June, [3][2019] for the period, and at the rate specified below:

if it is set-up in-

(i) Dhaka or Chittagong divisions (excluding Rangamati, Bandarban and Khagrachari districts) for a period of five years beginning with the month of commencement of commercial exhibition:

Period of Exemption	Rate of Exemption
For the first two years (first and second year)	100% of income
For the next two years (third and fourth year)	50% of income
For the next one year (fifth year)	25% of income

[4][(ii) Rajshahi, Khulna, Sylhet Rangpur and Barisal divisions and Rangamati, Bandarban and Khagrachari districts for a period of ten years beginning with the month of commencement of commercial exhibition:

Period of Exemption	Rate of Exemption
For the first three years (first, second and third year)	100% of income
For the next three years (fourth, fifth and sixth year)	50% of income
For the next four year (seventh to tenth years)	25% of income]

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[1] *Ins. by এস.আর.ও নং ৫৯-আইন/আয়কর/২০১২, তারিখঃ ২৮/০২/২০১২*
[2] *Ins. new paragraph 44, 45, 46 and 47 by F.A. 2012*
[3] *Subs. for "2015" by F.A. 2014*
[4] *Subs. for "2015" by F.A.2014*

45. An amount of income derived by an industrial undertaking engaged in the production of rice bran oil and commencing commercial production by thirtieth day of June, [1][2019] and at the rate specified below:

if the said undertaking is set-up in-

[2][(i) Dhaka or Chittagong divisions (excluding city corporation area and Rangamati, Bandarban and Khagrachari districts) for a period of five years beginning with the month of commencement of commercial production:

Period of Exemption	Rate of Exemption
For the first two years (first and second year)	100% of income
For the next two years (third and fourth year)	50% of income
For the next one year (fifth year)	25% of income

(ii) Rajshahi, Khulna, Sylhet Rangpur and Barisal divisions (excluding city corporation area) and Rangamati, Bandarban and Khagrachari districts for a period of ten years beginning with the month of commencement of commercial exhibition:

Period of Exemption	Rate of Exemption
For the first three years (first, second and third year)	100% of income
For the next three years (fourth, fifth and sixth year)	50% of income
For the next four year (seventh to tenth years)	25% of income]

46. An amount equal to fifty percent of the income of an assessee derived from the production of corn/maize or sugar beet;

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[1] *Subs. for "2015" by F.A. 2014*

[2] *Subs.by F.A.2014*

47. Income of an assessee donated in an income year to any fund established by or under the provisions of প্রধানমন্ত্রীর শিক্ষা সহায়তা ট্রাস্ট আইন, ২০১২ (২০১২ সনের ১৫ নং আইন) (Trust of Prime Minister's Education Assistance Act, 2012) (Act No. 15 of 2012) subject to a maximum of-

(a) twenty percent (20%) of income of a company or taka eight crore, whichever is less;

(b) twenty percent (20%) of income of an assessee other than a company or one crore taka , whichever is less.]

[1][48. Any income earned in abroad by an individual assessee being a Bangladeshi citizen and brought any such income into Bangladesh as per existing laws applicable in respect of foreign remittance.

49. Income of an assessee donated in an income year by a crossed cheque to any girls' school or girls' college approved by the Ministry of Education of the government.

50. Income of an assessee donated in an income year by a crossed cheque to any Technical and Vocational Training Institute approved by the Ministry of Education of the government.

51. Income of an assessee donated in an income year by a crossed cheque to any national level institution engaged in the Research & Development (R&D) of agriculture, science, technology and industrial development.]

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[1]*Ins. Paragraphs 48, 49, 50 &51by F.A. 2014*

THE SIXTH SCHEDULE
PART B
EXEMPTIONS AND ALLOWANCES [1][FOR ASSESSEES BEING RESIDENT AND NON-RESIDENT BANGLADESHI]
[See section 44 (2)]

1. Any sum paid by an assessee, being an individual, to effect an insurance, or a contract for deferred annuity, on the life of the assessee or on the life of a wife or husband or a minor child of the assessee, subject to the limit of such payment, in the case of insurance, to ten per cent. of the actual sum assured (excluding bonus or other benefits.)

2. Any sum paid by an assessee, being a Hindu undivided family, to effect an insurance on the life of any male member of the family or the wife of any such member :

Provided that no exemption under this paragraph or paragraph (1) shall be allowed unless the premium and the proceeds of the life insurance policy or the contract for deferred annuity, as the case may be, are both payable in Bangladesh.

3. Any sum deducted from salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service for the purpose of securing to him a deferred annuity or of making provisions for his wife or children, provided that the sum so deducted shall not exceed one-fifth of the salary.

4. Any sum paid by the assessee as a contribution to any provident fund to which Provident Fund Act, 1925 (XIX of 1925), applies.

5. Any sum representing the assessee's and the employer's contribution to a recognised provident fund in which the assessee is a participant subject to the limits laid down in **Part B** of the **First Schedule**.

6. Any sum paid by the assessee as ordinary annual contribution to approved superannuation fund in which the assessee is a participant.

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[1] *Ins. "for assessees being resident" by F.A. 1995 and subs. for "for assessees being resident" by F.O. 2007*

[1][(7.)*]**

[2][(8.)***

(9.) *]**

10. (1) Subject to the maximum laid down in sub-paragraph (2), any sum invested by an assessee, not being a company, in the purchase of the following, namely:-

(a) such savings certificates or instruments as the Board may specify in this behalf [3][***].

(b) unit certificates and mutual fund certificates issued by [4][any financial institution or] the [5][Investment Corporation of Bangladesh and its subsidiaries];

(c) such Government securities (including Development loans or Bonds) as the Board may specify in this behalf ; and

(d) shares of such investment companies as the Board may specify in this behalf.

Explanation.-For the purpose of clause (d) "investment companies" means companies engaged principally or wholly in buying and selling securities of other companies and includes a company eighty per cent. of whose paid up capital is employed at any one time as investment in other companies, but does not include a bank or an insurance company or a corporation which is a member of stock exchange.

[6][(2) Where any certificate, security or share (herein referred to as "the certificate") to which clause (a), (b), (c) and (d) of sub-paragraph (1) apply and in respect of which any credit in tax has been allowed to the assessee, is disposed of by sale, transfer or in any other manner within five years from the date of its purchase or before the maturity thereof, as the case may be, then,

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[1] *Omitted by F.A. 1992*
[2] *Omitted Paragraphs 8 and 9 by F.A. 2011*
[3] *Omitted by F.A. 1997*
[4] *Ins. by F.O. 2013*
[5] *Subs. for "investment Corporation of Bangladesh" by F.A. 2004*
[6] *Subs. by F.A. 1998*

notwithstanding anything contained in this Ordinance, the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such certificate was so disposed of, shall be increased by an amount equal to the credit in tax allowed to the assessee in respect of such certificate (hereinafter referred to as the "said amount") and the sum so arrived at or where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and other provisions of this Ordinance shall, so far as may be, apply accordingly.]

[1]**[11.** An amount not exceeding taka sixty thousand by an individual in any deposit pension scheme sponsored by a scheduled bank [2][or a financial institution].]

[3]**[11A**. Any sum paid as donation by an assessee to a charitable hospital which is established out side the city corporation area [4][one year] before such payment and is approved by the Board for this purpose.]

11B. Any sum paid as donation by an assessee to an organization set up for the welfare of retarded people, established at least [5][one year] before such payment and is approved by the Social Welfare Department and by the Board for this purpose.]

[6]**[(12.)***]**

13. any sum paid by an assessee as Zakat to the Zakat Fund or as donation or contribution to a charitable fund established by or under the Zakat Fund Ordinance,1982 (XI of 1982).

[7]**[(14.)***]**

15. Any sum which the assessee is entitled to receive out of the income of an association of persons (other than a Hindu undivided family, company or a firm) on which tax has already been paid by the association :

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[1] *Subs. by F.A. 2011*
[2] *Ins by F.A. 2012*
[3] *Ins. by F.A. 2000*
[4] *Subs. for "three years" by F.A. 2002*
[5] *Subs. for "three years" by F.A. 2002*
[6] *Omitted by F.A. 1992*
[7] *Omitted by F.A. 1992*

Provided that where there is included in the total income of an assessee any income exempted under this paragraph, the tax payable by the assessee shall be an amount bearing to the total amount of the tax which would have been payable on the total income had no part of it been exempted, at the same proportion as the unexempted portion of the total income bears to the total income.

16. Any sum being the share or portion of the share of the assessee in the income of [1][a firm] if tax of such income has already been paid by the firm:

Provided that where there is included in the total income of an assessee any income exempted under this paragraph, the tax payable by the assessee shall be an amount bearing to the total amount of the tax which would have been payable on the total income had no part of it been exempted, at the same proportion as the unexempted portion of the total income bears to the total income.

17. Any sum paid by an assessee, in order to make provision for his wife, children or other persons dependent on him, to a benevolent fund or any premium paid under a group insurance scheme if such fund or the scheme is approved by the Board for this purpose.

[2][(18.)***

(19.)***

(20.)*]**

[3][21. Any sum paid by an assessee as donation to any socio-economic or cultural development institution established in Bangladesh by the Aga Khan Development Network.]

[4][22. Any sum paid by an assessee as donation to a philanthropic or educational institution which is approved by the Government for this purpose.]

[5][23. Any sum invested in the purchase of one computer or one laptop by an individual assessee.]

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[1] *Ins. by F.A. 1995*
[2] *Omitted by F.A. 1992*
[3] *Ins. by F.A. 1993*
[4] *Ins. by F.A. 2005*
[5] *Ins. by F.A. 2009*

[1]**[24.** Any sum paid by an assessee as donation to a national level institution set up in memory of the liberation war.

25. Any sum paid by an assessee as donation to a national level institution set up in memory of Father of the Nation.]

[2]**[(26.)***]**

[3]**[27.** Any sum invested by an assessee, being an individual, in the acquisition, of any stocks or shares of a company, mutual fund or debenture listed with any stock exchange.]

28. Any sum invested by an assessee, being an individual, in the purchase of Bangladesh Government Treasury Bond.]

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[1] *Ins. paragraph 24, 25, and 26 by F.A. 2011*
[2] *Omitted by F.A. 2012*
[3] *Subs. by এস.আর. ও নং ৬০-আইন/আয়কর/২০১২, তারিখঃ ২৮/০২/২০১২*

THE SEVENTH SCHEDULE
COMPUTATION OF RELIEF FROM INCOME TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX
[See section 144 (4)]

1. Definitions.- (1) In this Schedule,-

(a) "Bangladesh tax" means income tax charged in accordance with the provisions of the Income Tax Ordinance,1984 ;

(b) "foreign tax" means, in relation to any country an agreement with the Government of which has effect by virtue of section 144 of this Ordinance, any tax chargeable under the laws of that country for which credit may be allowed under the agreement ;

(c) "foreign income tax" means any foreign tax which corresponds to income tax.

(2) Where, an agreement having effect by virtue of the said section 144, provides for any tax chargeable under the laws of the country concerned being treated as income tax, that tax shall be treated as foreign tax or foreign tax other than foreign income tax, as the case may be.

(3) Any reference in this Schedule to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any agreement, as a reference only to tax chargeable under the laws of the country with the Government of which the agreement was made.

2. Credit against Bangladesh tax.- Subject to the provisions of this Schedule, where, under an agreement concluded under section 144, credit is to be allowed against Bangladesh tax chargeable in respect of any income, the amount of the Bangladesh taxes so chargeable shall, subject to the provisions of the said agreement, be reduced by the amount of the credit.

3. Credit admissible to residents.- Credit shall not be allowed against income tax for any year of assessment unless the persons in respect of whose income the tax is chargeable is resident for the period on the basis of which income is assessed.

4. Computation of credit.- The amount of the credit to be allowed for foreign tax against Bangladesh tax in respect of any income shall not exceed the amount which would be arrived at by applying the average rate of such tax to the doubly taxed income.

5. Effect on computation of income on allowance of credit.- (1) Where the income includes a dividend and, under the agreement, foreign tax, whether chargeable directly or by deduction in respect of the dividend or not, is to be taken into account in considering whether any, and if so, how much, credit is to be allowed against the Bangladesh tax in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax appropriate to the dividend which falls to be taken into account in computing the amount of the credit.

(2) Where the amount of the income is to be treated as increased under sub-paragraph (1), the foreign tax not chargeable directly or by deduction which is to be taken into account, shall be so much as borne by the body corporate paying the dividend upon the profits for the period for which the dividend is paid, or, if the dividend is not paid for a specified period, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable.

Explanation.- In this sub-paragraph "paid" means paid, credited or distributed or deemed to have been paid, credited or distributed.

(3) Notwithstanding anything contained in the preceding provisions of this paragraph and in section 30, where part of the foreign tax in respect of the income cannot be allowed as a credit against the Bangladesh tax, the amount of the income shall be treated for the purposes of income tax as reduced by that part of that foreign tax.

(4) Where the income tax payable depends on the amount received in Bangladesh the said amount shall be treated as increased by the amount of the credit allowable against income tax.

(5) In computing the total income of a person for the purpose of determining the rate mentioned in paragraph 4, sub-paragraph (1) and (3) of this paragraph shall not apply, and for the reference in sub-paragraph (4) of this paragraph, to the amount of the credit allowance against income tax, there shall be substituted a reference to the amount of the foreign tax in respect of the income.

6. Limitation for claim.- (1) Subject to the provisions of sub-paragraph (2), any claim for an allowance by way of credit for foreign tax in respect of any income shall be made to the Deputy Commissioner of Taxes of the district in which the claimant is chargeable to income tax not later than two years from the end of the year of assessment for which that income falls to be charged to Bangladesh tax or would fall so to be charged if any such tax were chargeable in respect thereof.

(2) Where, the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Bangladesh or under the laws of any other country, nothing in the Ordinance limiting the time for the making of assessment or claims for refund shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessment, adjustments and other determinations have been made whether in Bangladesh or elsewhere, as are material in determining whether any, and if so, how much, credit falls to be given.

7. Appeal.- A person claiming an allowance by way of credit for foreign tax may appeal to the Appellate Joint Commissioner against any order of the Deputy Commissioner of Taxes disallowing the claim either wholly or in part, within thirty days of the date on which the order of the Deputy Commissioner of Taxes was communicated to the claimant, and the provisions of Chapter XIX of the Ordinance shall, with the necessary modifications, apply accordingly.

8. Provisions as to the deduction of tax at source.- (1) The provisions of this paragraph shall have effect where an agreement having effect under section 144 of the Ordinance provides for the exemption from Bangladesh tax of any class of income arising to persons resident in the country with the Government of which the agreement is made, being income from which deduction of tax is required to be made under the Ordinance.

(2) Any person who pays income of any such class (referred to in this paragraph as "the Bangladesh payer") to a person in the said country who is beneficially entitled to the income (such person being referred to in this paragraph as "the non-resident") may be required, by notice given by or under the direction of the Board, to pay any such income to the non-resident without deduction of tax, and where such notice is given, any income from any source specified in the notice, being income for a year for which the agreement has effect, which the Bangladesh payer, the date on which the notice was communicated, pays to the non-resident whose name is specified therein, shall, subject to the following provisions of this paragraph, be paid without deduction of tax.

(3) Any notice given under sub-paragraph (2) may be expressed to become ineffective if certain specified events happen or, whether so expressed or not, may be cancelled by a notice of cancellation given by or under the direction of the Board, and if, to the knowledge of the Bangladesh payer, any of those events happens or if such notice of cancellation is given, any payment made to the non-resident by the Bangladesh payer after the happening of that event becomes known to the Bangladesh payer, or after the date on which that notice was communicated to the Bangladesh payer, as the case may be, shall be subject to deduction of tax in accordance with the Ordinance.

(4) If it is discovered, after a notice has been given under sub-paragraph (2) that the non-resident is not entitled to exemption from tax in respect of income from any source specified in the notice, any tax which, but for the notice, would have been deductible from any payment made to the non-resident by the Bangladesh payer but by virtue of the notice has not been so deducted shall, if a deduction to that effect is given by or under the direction of the Board, be deducted by the Bangladesh payer out of so much of the first payment made to the non-resident after the date on which the direction was communicated to the Bangladesh payer as remains after the deduction of any tax deductible therefrom under the Ordinance, and

any balance which cannot be deducted out of the first such payment shall be deducted, subject to the same limitation, out of the next such payment, and so on, until the whole of the tax (the amount of which shall be specified in the direction) has been deducted.

(5) Any tax which the Bangladesh payer is required to deduct under sub-paragraph (4) shall be paid to the Government and the provisions of Chapter VII of the Ordinance relating to deduction of tax at source shall, with necessary modifications, apply accordingly.

(6) A notice may be given under sub-paragraph (2) where income is paid to a person authorized to receive such income on behalf of a non-resident, and in such a case, the reference in this paragraph to payment to the non-resident shall be treated as including references to payment to that person.

[1][THE EIGHTH SCHEDULE

THE EIGHTH SCHEDULE
Deductions or Collections of tax at source

[See section 62A]

[1]*THE EIGHTH SCHEDULE inserted. by F.A. 2009 and subs. by F.A. 2010 subsequently omitted by F.A. 2011*

DHAKA President

The 3rd June, 1984 Peoples Republic of Bangladesh

MD. ABUL BASHAR BHUIYAN

Deputy Secretary (Drafting)